Ontario

Mortgage Brokerages, Lenders and Administrators Act, 2006

A Consultation Draft of Regulations Proposed under Bill 65

Proposed by the Ministry of Finance
November, 2006

Mortgage Brokerages, Lenders and Administrators Act, 2006

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Proposed by the Ministry of Finance

This Consultation Draft is intended to facilitate constructive dialogue concerning its contents.

Note that the regulations will only become law if the Legislative Assembly passes the associated legislation and if the Lieutenant Governor in Council promulgates the regulations.

NOVEMBER, 2006

2007-05485/

Dear Stakeholder:

I am pleased to enclose for your review and comment a copy of *A Consultation Draft of Regulations Proposed under Bill 65,* the *Mortgage Brokerages, Lenders and Administrators Act, 2006* which proposes new regulations regarding regulated activities, exemptions, licensing, the powers and duties of principal brokers and the standards of practice for brokerages.

This draft is the result of on-going public consultations and comments that have been received on ways to improve consumer protection and streamline regulatory approaches. This draft follows previous consultation on licensing regulations released in March 2005. Additional regulations not included in this consultation document are being developed concerning topics such as standards of practice for brokers, agents, and mortgage administrators.

Your views are important and will assist the government in finalizing the regulatory proposals in this area. The ministry welcomes suggestions from consumers, businesses, and professionals to help us meet the objective of providing better consumer protection in a way that is fair and practical for individuals and businesses.

The enclosure contains information on how you can comment on these proposals.

Thank you for taking the time to read this consultation draft. Your input is appreciated and will be taken into consideration.

Sincerely,

Wayne Arthurs
Parliamentary Assistant to the
Minister of Finance

TABLE OF CONTENTS

I. INVITATION FOR COMMENTS 1

II. SUMMARY OF PROPOSALS 3

1. General 3
2. Additional Regulated Activities 4
3. Exemptions from the Requirements to be Licensed 4
4. Mortgage Brokerages - Licensing 4
5. Mortgage Brokers and Agents - Licensing 4
6. Mortgage Administrators - Licensing 5
7. Principal Brokers 5
8. Standards of Practice - Mortgage Brokerages 5

III. CONSULTATION DRAFT OF REGULATIONS 9

Additional Regulated Activities 9
Exemptions from the Requirements to be Licensed 10
Mortgage Brokerages - Licensing 15
Mortgage Brokers and Agents - Licensing 19
Mortgage Administrators - Licensing 26
Principal Brokers 30
Standards of Practice - Mortgage Brokerages 32

IV. INVESTOR / LENDER DISCLOSURE FORMS 58

I. INVITATION FOR COMMENTS

The Ministry of Finance is seeking your views on *A Consultation Draft of Regulations Proposed under Bill 65*, the *Mortgage Brokerages, Lenders and Administrators Act, 2006*.

The accompanying consultation draft contains detailed wording of the proposed regulations regarding regulated activities, exemptions, licensing, powers and duties of principal brokers and the standards of practice for brokerages. These proposals are intended solely for discussion purposes and would only become law if Bill 65 is passed by the Legislature and if the regulations are promulgated by the Lieutenant Governor in Council.

Your views are important and will assist the ministry in finalizing these regulatory proposals. The Ministry of Finance invites your comments on the issues outlined in this consultation draft. Interested parties are invited to make written submissions by **January 19th, 2007**.

You may send comments by mail, fax or e-mail to:

Draft regulations proposed under Bill 65

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This consultation paper can be reviewed online at http://www.fin.gov.on.ca

A copy of Bill 65, the *Mortgage Brokerages, Lenders and Administrators Act, 2006* can be obtained online at http://www.ontla.on.ca/

Please note that this is a public consultation. All comments received will be considered public and may be used by the ministry to help evaluate and revise the proposed draft regulations. This may involve disclosing some or all comments or materials, or summaries of them, to other interested parties during and after the consultation.

Any personal information in submissions, such as names and contact details (i.e. home addresses and phone numbers, personal email addresses, etc.) – in addition to any other information that could be used to identify an individual – will not be disclosed without prior consent. However, records created by individuals acting in a professional capacity (i.e. on behalf of a group, association, business, commercial enterprise, etc.) may be disclosed, unless your covering letter states that such disclosure would be harmful and/or prejudicial.

If for any reason you feel your comments should not be shared with other parties, please indicate this in your covering letter.

If you have any questions about this consultation or how any element of your submission may be used or disclosed, please contact:

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II. Summary of Proposals

1. General

The Ministry of Finance is conducting consultations with stakeholders and inviting input from the public on draft regulations under Bill 65, the *Mortgage Brokerages, Lenders and Administrators Act, 2006*. While the proposed act sets out a new framework for regulating the mortgage brokerage industry, many of the detailed and specific rules are to be developed and set out in regulations.

As a result, the Ministry is releasing the following draft regulations for consultation:

- Additional Regulated Activities
- Exemptions from the Requirements to be Licensed
- Mortgage Brokerages – Licensing
- Mortgage Brokers and Agents – Licensing
- Mortgage Administrators – Licensing
- Principal Brokers
- Standards of Practice – Mortgage Brokerages

In March 2005, the Ministry released and consulted on three regulations concerning the licensing requirements for mortgage brokerages, mortgage administrators, and mortgage brokers and agents. These regulations are being re-released for further consultation as they have taken into account the feedback that was received in the earlier consultation and now contain new proposals as well.

In July 2005, the Ministry consulted on a draft regulation dealing with the disclosure of the cost of borrowing under the existing *Mortgage Brokers Act*. That draft regulation proposed mandatory disclosure requirements for consumer loans and other disclosure requirements relating to statements and advertisements. It also described how the cost of borrowing under a loan is to be calculated. It is proposed that the cost of borrowing disclosure regulation under Bill 65 adopt the requirements set out in the earlier consultation with necessary modifications. That regulation is not included in this consultation document.

Additional regulations not included in this document are also being developed. The topics that will be addressed include: standards of practice for brokers and agents, standards of practice for mortgage administrators, and details regarding administrative penalties.

The content, structure and form of the draft regulations are subject to change as a result of the consultation process and as a result of review by the government. These proposals would only come into effect if Bill 65 is passed by the Legislative Assembly and the regulations are promulgated by the Lieutenant Governor.

The following gives readers a brief summary of the regulations in this consultation package. Readers are encouraged to focus their attention on the actual wording of the consultation draft of the regulations and not rely only on this guide.

2. Additional Regulated Activities

This regulation prescribes an additional activity which constitutes administering mortgages.

3. Exemptions from the Requirements to be Licensed

Simple Referrals: Persons who refer borrowers to lenders, or lenders to borrowers would be exempt from the requirement to have a licence if written notice is provided in advance about fees and relationships with the lender, and only if limited information about the borrower such as name and address is exchanged.

Lawyers: Lawyers would be exempt from licensing requirements if they are acting in their professional capacity as a lawyer on behalf of a client. Lawyers would not be exempt if they hold themselves out as engaging in activities which require a brokerage, broker or agent licence.

Other Exemptions: Certain crown corporations, trustees in bankruptcy, administrators of mortgage-backed securities and others would be exempt from the requirement to be licensed under Bill 65.

4. Mortgage Brokerages - Licensing

This draft regulation is based on the March 2005 consultation draft with the following modification:

- A mortgage brokerage may be licensed in its legal name or trade name. The Superintendent could refuse to issue a licence in a name that is misleading or confusing.

5. Mortgage Brokers and Agents - Licensing

This draft regulation is based on the March 2005 consultation draft. Some of the modifications include the following:

- Education and experience exemptions would be clearly set out for registrants and listed agents under the *Mortgage Brokers Act*, real estate brokers, and those whose education is in progress at the effective date of the proposed regulation.

- The Superintendent would approve the required programs of education.
- A simplified definition of finance company is proposed.

6. Mortgage Administrators - Licensing

This draft regulation is based on the March 2005 consultation draft with the following modification:

- A mortgage administrator may be licensed in its legal name or trade name. The Superintendent could refuse to issue a licence in a name that is misleading or confusing.

7. Principal Brokers

It is proposed that a principal broker have a duty to ensure that the brokerage and each broker and agent comply with every requirement under the Act and that brokerages take reasonable steps to deal with any contraventions of the Act. A principal broker would also be required to review the compliance policies and procedures of the brokerage. A brokerage's trust account reconciliation statements would need to be reviewed and certified by the principal broker.

8. Standards of Practice - Mortgage Brokerages

This proposed regulation sets out rules and requirements that must be complied with by all mortgage brokerages. The objectives for these regulations are based on the following principles:

- Borrowers, lenders and investors need to be assured that they are treated fairly by brokerages and that they have all necessary information to enable them to make an informed decision
- Brokerages need to demonstrate accountability for their representations to the public, sound internal governance, and financial accountability.

Non-compliance with the standards of practice may give rise to various regulatory remedies and would constitute an offence under Bill 65.

Representations to the Public

A brokerage would not be able to carry on business in a name other than a name in which it is licensed. Advertisements and similar materials would need to clearly disclose the name and licence number of the brokerage and if a broker or agent is identified, then the broker or agent's name and licence number. In all cases appropriate titles such as "brokerage", "broker", or "agent" would be required to be used.

False, misleading or deceptive representations would be prohibited. No representation could be made to indicate that fees are set or approved by the government.

A brokerage would be required to maintain errors and omissions insurance with extended coverage for fraud sufficient to pay a minimum of $500,000 in respect of any occurrence or $1,000,000 in respect of all occurrences in a year.

Internal Governance

In order to qualify as a principal broker of a brokerage, an individual would be required to be a licensed mortgage broker and either an officer, director, partner or sole proprietor of the brokerage. A brokerage could only have one principal broker at any time.

Brokerages would be required to designate an employee as a complaints officer. A record of all complaints received by the brokerage would be required to be maintained. The brokerage would be required to provide written responses to all written complaints received. Complainants would be informed that they can contact the Superintendent if they are not satisfied by the brokerage's proposed resolution of a complaint.

General Standards of Practice

Brokerages would be prohibited from acting for a borrower, lender or investor if there were reasonable grounds to believe the mortgage or investment was unlawful.

Brokerages could only receive money from a lender or investor if there is a specific mortgage or property to be mortgaged.

Brokerages would be required to take reasonable steps to ensure the suitability of a mortgage for a borrower, lender, or investor as the case may be.

Guarantees by a brokerage in respect of a mortgage or an investment in a mortgage would be prohibited.

No advance payments by a borrower to a brokerage would be permitted on mortgages less than $300,000.

A brokerage would be prohibited from paying fees or remuneration in respect of dealing or trading in mortgages to an unlicensed person unless the person was exempt from the requirement to be licensed and would be prohibited from paying brokers and agents working for another brokerage.

Coercive tied selling would be prohibited.

The brokerage would be required to return documents to the owner of the documents upon request.

The brokerage would be responsible for ensuring the brokerage and its brokers and agents use approved forms.

Obtaining and Disclosing Information

Brokerages would be required to verify the identity of borrowers, lenders and investors in the circumstances indicated and disclose doubts, if any, about the accuracy of information in a mortgage application or a borrower's legal authority to mortgage a property.

Before arranging or entering into a reverse mortgage with a borrower, the brokerage would be required to receive confirmation that the borrower had obtained independent legal advice.

Brokerages would also be required to disclose to borrowers, lenders and investors information regarding fees, risks and benefits of proposed mortgages and conflicts of interest within specified time periods.

The documents and information which would be required to be provided by the brokerage to a lender or investor, or to a lender upon the renewal of a mortgage, are listed in the proposed regulation.

- A disclosure form, in a form approved by the Superintendent, signed by the broker, is among the listed documents. A draft copy of the form, as well as a draft copy of the disclosure form for renewal of a mortgage, is included in Section IV for consultation purposes.

A specified person or entity, as defined in the regulation to include high income or net worth persons and financial institutions, would be exempt from receiving these documents or information.

Brokerages would be prohibited from selling or attempting to sell a mortgage that has been in default in the previous 12 months unless written disclosure is provided to the investor about the amount and length of default.

Trust Funds

Brokerages would be required to maintain a trust account, keep records of trust money transactions and prepare monthly trust reconciliation statements. Shortfalls in the trust account would be required to be reported to the Superintendent.

Reports and Recordkeeping

Brokerages would be required to maintain an address for service in Ontario and an e-mail address. Certain changes would be required to be reported to the Superintendent including changes in places of business, changes in the brokerage's officers, directors or partners, and changes in significant ownership interest.

Each brokerage would be required to submit an annual information return by March 31 of each year in a form approved by the Superintendent.

Audited annual financial statements, prepared in accordance with generally accepted accounting principles would need to be filed with the Superintendent unless the brokerage did not hold any money in trust during the fiscal year.

Recordkeeping requirements are also proposed.

CONSULTATION DRAFT REGULATION

under the

MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006

ADDITIONAL REGULATED ACTIVITIES

Note: This is a draft regulation for discussion purposes. Bill 65, the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, is not yet enacted.

Administering mortgages — prescribed activity

1. A person or entity is administering mortgages in Ontario when he, she or it engages in the following activity in Ontario, or holds themself out as doing so:

1. Taking steps, on behalf of another person or entity, to enforce payment by a borrower under a mortgage.

CONSULTATION DRAFT REGULATION

under the

MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006

EXEMPTIONS FROM THE REQUIREMENTS TO BE LICENSED

Note: This is a draft regulation for discussion purposes. Bill 65, the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, is not yet enacted.

SIMPLE REFERRALS

Referring borrowers to lenders

1. A person or entity that refers a prospective borrower to a prospective mortgage lender is exempted from the requirement in section 2 of the Act to have a brokerage licence or a mortgage broker's or agent's licence if the person or entity complies with both of the following requirements:

1. Before or at the time of making the referral, the person or entity advises the prospective borrower in writing,

    i. that the person or entity has received or will or may receive a fee or other remuneration, whether directly or indirectly, for making the referral, and

    ii. of the nature of the relationship between the person or entity and the prospective lender.

2. The only other information that the person or entity gives to the prospective borrower is the name, address, telephone number, fax number, e-mail address or website address of the prospective lender or of a person who acts on behalf of the prospective lender.

Referring lenders to borrowers

2. A person or entity that refers a prospective mortgage lender to a prospective borrower is exempted from the requirement in section 2 of the Act to have a brokerage licence or a mortgage broker's or agent's licence if the person or entity complies with all of the following requirements:

1. Before making the referral, the person or entity advises the prospective borrower in writing,

    i. that the person or entity has received or will or may receive a fee or other remuneration, whether directly or indirectly, for making the referral, and

ii. of the nature of the relationship between the person or entity and the prospective lender.

2. After giving the information described in paragraph 1, the person or entity obtains the prospective borrower's consent in writing to give the prospective lender the name, address, telephone number, fax number, e-mail address or website address, as specified by the prospective borrower, of the prospective borrower or of a person who acts on behalf of the prospective borrower.

3. The person or entity does not give the prospective lender any information about the prospective borrower except that specified by the prospective borrower pursuant to paragraph 2.

Referral for no fee or other remuneration

3. Nothing in sections 1 or 2 affects the right of a person or entity that does not have a brokerage licence or a mortgage broker's or agent's licence to refer a prospective borrower to a prospective mortgage lender or a prospective mortgage lender to a prospective borrower for no fee or other remuneration.

LAWYERS

Dealing in mortgages

4. A lawyer is exempted from the requirement in section 2 of the Act to have a brokerage licence or a mortgage broker's or agent's licence if both of the following circumstances apply:

1. The lawyer, acting in his or her professional capacity as a lawyer on behalf of a client,

   i. solicits a person or entity to lend money on the security of real property, or

   ii. engages in an activity described in paragraph 2, 3 or 4 of subsection 2 (1) of the Act.

2. The lawyer does not hold himself or herself out as engaging in any activity described in subsection 2 (1) of the Act, except as described in paragraph 1 of this section, or otherwise as dealing in mortgages.

Trading in mortgages

5. A lawyer is exempted from the requirement in section 3 of the Act to have a brokerage licence or a mortgage broker's or agent's licence if both of the following circumstances apply:

1. The lawyer, acting in his or her professional capacity as a lawyer on behalf of a client, engages in an activity described in paragraph 1 or 2 of subsection 3 (1) of the Act.

2. The lawyer does not hold himself or herself out as engaging in any activity described in subsection 3 (1) of the Act, except as described in paragraph 1 of this section, or otherwise as trading in mortgages.

Administering mortgages

6. A lawyer is exempted from the requirement in section 5 of the Act to have a mortgage administrator's licence if both of the following circumstances apply:

1. The lawyer administers mortgages, acting in his or her professional capacity as a lawyer on behalf of a client.

2. The lawyer does not hold himself or herself out as administering mortgages, except as described in paragraph 1 of this section.

OTHER EXEMPTIONS

Statutory corporations

7. The following corporations are exempted from the requirement in section 2, 3 or 4 of the Act to have a brokerage licence and from the requirement in section 5 of the Act to have a mortgage administrator's licence:

1. Ontario Realty Corporation.

2. Ontario Infrastructure Projects Corporation.

3. Ontario Housing Corporation.

4. Ontario Development Corporation.

5. Northern Ontario Development Corporation.

6. Eastern Ontario Development Corporation.

Trustee in bankruptcy

8. A person or entity acting in the person's or entity's capacity as a trustee in bankruptcy is exempted from the requirement in section 2, 3 or 4 of the Act to have a brokerage licence and from the requirement in section 5 of the Act to have a mortgage administrator's licence.

Acting under court order

9. A person or entity acting under an order of the Superior Court of Justice is exempted from the requirement in section 2, 3 or 4 of the Act to have a brokerage licence and from the requirement in section 5 of the Act to have a mortgage administrator's licence.

Delivery agent for CMHC

10. A person or entity is exempted from the requirement in section 2, 3 or 4 of the Act to have a brokerage licence when it acts as agent for the Canada Mortgage and Housing Corporation pursuant to section 6 of the *National Housing Act* (Canada).

Intermediaries

11. A person or entity is exempted from the requirement in section 3 or 4 of the Act to have a brokerage licence if the person or entity carries on the business of trading in mortgages or as a mortgage lender solely through a mortgage brokerage or a person or entity that is exempted from the requirement to have a brokerage licence.

Directors, employees, etc. of persons and entities not required to be licensed

12. A director, partner, officer or employee of a person or entity that is not required to have a brokerage licence under section 2 or 3 of the Act, or a member of the directing body of such an entity, is exempted from the requirement in section 2 or 3 of the Act to have a mortgage broker's or agent's licence if the individual deals or trades in mortgages solely on behalf of the person or entity in the ordinary course of his or her duties.

Consumer reporting agencies

13. (1) A consumer reporting agency registered under the *Consumer Reporting Act* is exempted from the requirement in section 2 of the Act to have a brokerage licence if both of the following circumstances apply:

1. The agency, in the course of acting as a consumer reporting agency, engages in an activity described in paragraph 2 of subsection 2 (1) of the Act.

2. The agency does not hold itself out as engaging in any activity described in subsection 2 (1) of the Act, except as described in paragraph 1 of this subsection, or otherwise as dealing in mortgages.

(2) A director, partner, officer or employee of a consumer reporting agency registered under the *Consumer Reporting Act* is exempted from the requirement in section 2 of the Act to have a mortgage broker's or agent's licence when he or she engages in an activity described in paragraph 2 of subsection 2 (1) of the Act in the ordinary course of his or her duties.

Trading, administering re mortgage-backed securities

14. (1) A person or entity is exempted from the requirement in section 3 of the Act to have a brokerage licence or a mortgage broker's or agent's licence if the person or entity carries on the business of trading in mortgages or trades in mortgages solely in connection with mortgage securitization.

(2) A person or entity is exempted from the requirement in section 5 of the Act to have a mortgage administrator's licence when the person or entity carries on the business of administering only those mortgages that constitute the assets backing mortgage-backed securities.

(3) In this section,

"mortgage-backed securities" means securities, as defined in the *Securities Act*, that represent an interest in, or obligations backed by, a discreet pool of mortgages;

"mortgage securitization" means the pooling of mortgages for the purpose of creating mortgage-backed securities.

Acting for financial institution or Crown

15. A person or entity is exempted from the requirement in section 5 of the Act to have a mortgage administrator's licence if the person or entity carries on the business of administering mortgages solely on behalf of,

(a) a financial institution; or

(b) the Crown in right of Canada or a province.

Consultation Draft Regulation

under the

MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006

MORTGAGE BROKERAGES - LICENSING

Note: This is a draft regulation for discussion purposes. Bill 65, the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, is not yet enacted.

INTERPRETATION

Definition

1. In this Regulation,

"effective date" means the day on which subsections 2 (2) and 3 (3) of the Act come into force.

ELIGIBILITY TO BE ISSUED A LICENCE

Corporations

2. (1) A corporation is eligible to be issued a brokerage licence if all of the following requirements are satisfied:

1. The corporation was incorporated under an Act of any jurisdiction in Canada.

2. The corporation has a mailing address in Ontario that is suitable to permit service by registered mail.

3. The corporation has errors and omissions insurance in a form approved by the Superintendent with extended coverage for loss resulting from fraudulent acts or it has some other form of assurance in a form approved by the Superintendent. The insurance or other assurance must be sufficient to pay a minimum of $500,000 in respect of any one occurrence involving the corporation or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the corporation and $1 million in respect of all occurrences during a 365-day period involving the corporation or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the corporation.

(2) Despite paragraph 3 of subsection (1), a corporation that applies for the licence before the effective date is not required to have errors and omissions insurance or other assurance as described in that paragraph at the time of the application, but it must provide the Superintendent with satisfactory evidence that it will have the required errors and omissions insurance or other assurance as of the effective date.

(3) In determining whether a corporation is not suitable to be licensed as a brokerage, the Superintendent shall have regard to the following circumstances:

1. Having regard to its financial position, the corporation cannot reasonably be expected to be financially responsible in the conduct of its business.

2. The past conduct of any director or officer of the corporation affords reasonable grounds for belief that the business of the corporation will not be carried on in accordance with the law and with integrity and honesty.

3. The corporation is carrying on activities that contravene or will contravene the Act or the regulations if the corporation is licensed.

4. A director or officer of the corporation has made a false statement or has provided false information to the Superintendent with respect to the application for a licence.

Partnerships

3. (1) A partnership is eligible to be issued a brokerage licence if all of the following requirements are satisfied:

1. The partnership was formed under the law of any jurisdiction in Canada.

2. The partnership has a mailing address in Ontario that is suitable to permit service by registered mail.

3. The partnership has errors and omissions insurance in a form approved by the Superintendent with extended coverage for loss resulting from fraudulent acts or it has some other form of assurance in a form approved by the Superintendent. The insurance or other assurance must be sufficient to pay a minimum of $500,000 in respect of any one occurrence involving the partnership or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the partnership and $1 million in respect of all occurrences during a 365-day period involving the partnership or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the partnership.

(2) Despite paragraph 3 of subsection (1), a partnership that applies for the licence before the effective date is not required to have errors and omissions insurance or other assurance as described in that paragraph at the time of the application, but it must provide the Superintendent with satisfactory evidence that it will have the required errors and omissions insurance or other assurance as of the effective date.

(3) In determining whether a partnership is not suitable to be licensed as a brokerage, the Superintendent shall have regard to the following circumstances:

1. Having regard to its financial position, the partnership cannot reasonably be expected to be financially responsible in the conduct of its business.

2. The past conduct of any partner affords reasonable grounds for belief that the business of the partnership will not be carried on in accordance with the law and with integrity and honesty.

3. The partnership or any partner is carrying on activities that contravene or will contravene the Act or the regulations if the partnership is licensed.

4. A partner has made a false statement or has provided false information to the Superintendent with respect to the application for a licence.

Sole proprietorships

4. (1) A sole proprietorship is eligible to be issued a brokerage licence if all of the following requirements are satisfied:

1. The proprietor is a resident of Canada.

2. The sole proprietorship has a mailing address in Ontario that is suitable to permit service by registered mail.

3. The sole proprietorship has errors and omissions insurance in a form approved by the Superintendent with extended coverage for loss resulting from fraudulent acts or it has some other form of assurance in a form approved by the Superintendent. The insurance or other assurance must be sufficient to pay a minimum of $500,000 in respect of any one occurrence involving the sole proprietorship or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the sole proprietorship and $1 million in respect of all occurrences during a 365-day period involving the sole proprietorship or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the sole proprietorship.

(2) Despite paragraph 3 of subsection (1), a sole proprietorship that applies for the licence before the effective date is not required to have errors and omissions insurance or other assurance as described in that paragraph at the time of the application, but it must provide the Superintendent with satisfactory evidence that it will have the required errors and omissions insurance or other assurance as of the effective date.

(3) In determining whether a sole proprietorship is not suitable to be licensed as a brokerage, the Superintendent shall have regard to the following circumstances:

1. Having regard to its financial position, the sole proprietorship cannot reasonably be expected to be financially responsible in the conduct of its business.

2. The past conduct of the proprietor affords reasonable grounds for belief that the business of the sole proprietorship will not be carried on in accordance with the law and with integrity and honesty.

3. The sole proprietorship or the proprietor is carrying on activities that contravene or will contravene the Act or the regulations if the sole proprietorship is licensed.

4. The proprietor has made a false statement or has provided false information to the Superintendent with respect to the application for a licence.

LICENSEE'S NAME

Licensed names

5. (1) A corporation, partnership or sole proprietorship may be licensed as a brokerage in its legal name and, if applicable, in one other name that is registered to it under the *Business Names Act*.

(2) Despite subsection (1), a corporation, partnership or sole proprietorship may not be licensed in a name that the Superintendent reasonably believes is,

(a) the same as or similar to the name of another brokerage such that the use of that name by two brokerages would be likely to confuse or mislead the public; or

(b) objectionable on any public grounds.

CONSULTATION DRAFT REGULATION

under the

MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006

MORTGAGE BROKERS AND AGENTS - LICENSING

Note: This is a draft regulation for discussion purposes. Bill 65, the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, is not yet enacted.

INTERPRETATION

Definitions

1. In this Regulation,

"affiliate", with respect to a corporation, has the same meaning as in the *Business Corporations Act*;

"effective date" means the day on which subsections 2 (3) and 3 (3) of the Act come into force;

"finance company" means a corporation, other than a financial institution, that meets both of the following criteria:

1. A material business activity of the corporation involves making or refinancing loans, or entering into any other similar arrangements for advancing funds or credit.

2. The shares of the corporation, or a corporation with which the corporation is affiliated, are listed on a stock exchange in Canada or outside Canada that is a prescribed stock exchange for the purposes of the *Income Tax Act* (Canada).

ELIGIBILITY TO BE ISSUED A MORTGAGE BROKER'S LICENCE

Requirements for licence issue

2. (1) An individual is eligible to be issued a mortgage broker's licence if all of the following requirements are satisfied:

1. The individual is at least 18 years old.

2. The individual is a resident of Canada.

3. The individual has a mailing address in Ontario that is suitable to permit service by registered mail.

4. The individual is authorized by a brokerage to deal or trade in mortgages on its behalf.

5. The individual has successfully completed a program of education for mortgage agents approved by the Superintendent for the purpose of paragraph 5 of subsection 10 (1).

6. The individual has successfully completed, within three years before applying for the licence, a program of education for mortgage brokers approved by the Superintendent.

7. The individual was, for at least 24 of the 36 months immediately before the date he or she applies for the licence,

    i. licensed as a mortgage agent, or

    ii. employed or authorized to deal in mortgages on behalf of a person who was registered under the *Mortgage Brokers Act*, and the Superintendent had been notified under that Act that the individual was so employed or authorized.

(2) An individual is deemed to satisfy the education requirement of paragraph 5 or 6 of subsection (1) or the experience requirement of paragraph 7 of subsection (1), or any combination of the education and experience requirements of paragraphs 5, 6 and 7 of subsection (1), if the Superintendent is satisfied that the individual has a combination of education and experience that is equivalent to the requirement or requirements.

(3) An individual is exempt from satisfying the education and experience requirements of paragraphs 5, 6 and 7 of subsection (1) if the individual held a mortgage broker's licence at any time in the 24 months immediately before the date he or she applies for the licence.

Education and experience exemption — registered broker under *Mortgage Brokers Act*

3. An individual is exempt from satisfying the education and experience requirements of paragraphs 5, 6 and 7 of subsection 2 (1) if both of the following circumstances apply:

1. The individual applies for a mortgage broker's licence before the effective date.

2. The individual is, on the date he or she applies for the licence,

    i. an active director or officer of a corporation registered under the *Mortgage Brokers Act*,

    ii. a partner in a partnership registered under the *Mortgage Brokers Act*, or

    iii. the proprietor of a sole proprietorship registered under the *Mortgage Brokers Act*,

and the Superintendent had notice under that Act, before the date the individual applies for the licence, of the individual's status as described in subparagraph i, ii or iii.

Education and experience exemption — agent under *Mortgage Brokers Act*

4. An individual is exempt from satisfying the education and experience requirements of paragraphs 5, 6 and 7 of subsection 2 (1) if all of the following circumstances apply:

1. The individual applies for a mortgage broker's licence before the effective date.

2. The individual is, on the date he or she applies for the licence, employed or authorized to arrange or deal in mortgages on behalf of a person who is registered under the *Mortgage Brokers Act*, and the Superintendent had been notified under that Act, before the date that the individual applies for the licence, that the individual was so employed or authorized.

3. The individual has successfully completed one of the following courses:

    i. Financial Services Underwriting Program offered by Seneca College after 1998.

    ii. Mortgage Brokers Program offered by Seneca College in 1994, 1995, 1996, 1997 and 1998.

    iii. The Mortgage Brokers Course sponsored by the Ontario Mortgage Brokers Association before 1995.

Education and experience exemption — registered real estate broker

5. An individual is exempt from satisfying the education and experience requirements of paragraphs 5, 6 and 7 of subsection 2 (1) if both of the following circumstances apply:

1. The individual applies for a mortgage broker's licence before the first anniversary of the effective date.

2. The individual was registered as a real estate broker under the *Real Estate and Business Brokers Act, 2002* immediately before the earlier of the date he or she applies for the licence and the effective date.

Education and experience exemption — education in progress at effective date

6. An individual is exempt from satisfying the education and experience requirements of paragraphs 5 and 7 of subsection 2 (1) if both of the following circumstances apply:

1. The individual is enrolled, on the effective date, in the Financial Services Underwriting Program offered by Seneca College.

2. The individual successfully completes the program described in paragraph 1 within one year before applying for the licence.

Issuance where prior application refused, prior licence revoked

7. An individual whose mortgage broker's or agent's licence has been revoked, or whose application for a mortgage broker's or agent's licence or for renewal of such licence has been refused, may apply for a mortgage broker's licence only if,

(a) 12 months have passed since the revocation or refusal; and

(b) the individual satisfies the Superintendent that new or other evidence is available or that material circumstances have changed.

Requirements for licence renewal

8. An individual is eligible to have his or her mortgage broker's licence renewed if all of the following requirements are satisfied:

1. The individual is a resident of Canada.

2. The individual has a mailing address in Ontario that is suitable to permit service by registered mail.

3. The individual is authorized by a brokerage to deal or trade in mortgages on its behalf.

Non-suitability to be licensed

9. In determining whether an applicant is not suitable to be licensed as a mortgage broker on an application for the licence or for its renewal, the Superintendent shall have regard to the following circumstances:

1. The individual's past conduct affords reasonable grounds for belief that he or she will not deal or trade in mortgages in accordance with the law and with integrity and honesty.

2. The individual is carrying on activities that contravene or will contravene the Act or the regulations if he or she is licensed.

3. The individual has made a false statement or has provided false information to the Superintendent with respect to the application for the licence or for its renewal.

ELIGIBILITY TO BE ISSUED A MORTGAGE AGENT'S LICENCE

Requirements for licence issue

10. (1) An individual is eligible to be issued a mortgage agent's licence if all of the following requirements are satisfied:

1. The individual is at least 18 years old.

2. The individual is a resident of Canada.

3. The individual has a mailing address in Ontario that is suitable to permit service by registered mail.

4. The individual is authorized by a brokerage to deal or trade in mortgages on its behalf.

5. The individual has successfully completed, within two years before applying for the licence, a program of education for mortgage agents approved by the Superintendent.

(2) An individual is deemed to satisfy the education requirement of paragraph 5 of subsection (1) if the Superintendent is satisfied that the individual has a combination of education and experience that is equivalent to it.

(3) An individual is exempt from satisfying the education requirement of paragraph 5 of subsection (1) if the individual held a mortgage agent's licence at any time in the 24 months immediately before the date he or she applies for the licence.

Education exemption — if brokerage is finance company

11. (1) An individual is exempt from satisfying the education requirement of paragraph 5 of subsection 10 (1) if both of the following circumstances apply:

1. The individual is authorized to deal in mortgages on behalf of a brokerage that,

   i. is a finance company, and

   ii. is, or is an affiliate of, the lender for all the mortgages that brokers or agents authorized to deal in mortgages on behalf of the brokerage deal in.

2. The Superintendent is satisfied that the brokerage will provide the individual with such training as the Superintendent considers adequate.

(2) A mortgage agent's licence issued to an individual who is exempt from the education requirement of paragraph 5 of subsection 10 (1) by virtue of subsection (1) shall not be amended to replace the name of the brokerage on whose behalf the individual is authorized to deal or trade in mortgages with the name of another brokerage unless,

(a) subsection (1) applies to the individual in respect of the other brokerage as well; or

(b) the individual has successfully completed a program of education required by paragraph 5 of subsection 10 (1).

(3) An individual is deemed to satisfy the education requirement of clause (2) (b) if the Superintendent is satisfied that the individual has a combination of education and experience that is equivalent to it.

Education exemption — agent under *Mortgage Brokers Act*, completed education

12. An individual is exempt from satisfying the education requirement of paragraph 5 of subsection 10 (1) if all of the following circumstances apply:

1. The individual applies for a mortgage agent's licence before the effective date.

2. The individual is, on the date he or she applies for the licence, employed or authorized to arrange or deal in mortgages on behalf of a person who is registered under the *Mortgage Brokers Act*, and the Superintendent had been notified under that Act, before the date that the individual applies for the licence, that the individual was so employed or authorized.

3. The individual has successfully completed, more than two years before applying for the licence, a program of education for mortgage agents approved by the Superintendent for the purpose of paragraph 5 of subsection 10 (1).

Education exemption — agent under *Mortgage Brokers Act*, 24 months experience

13. An individual is exempt from satisfying the education requirement of paragraph 5 of subsection 10 (1) if both of the following circumstances apply:

1. The individual applies for a mortgage agent's licence before the effective date.

2. The individual was, for at least 24 of the 36 months immediately before the date he or she applies for a licence, employed or authorized to deal in mortgages on behalf of a person who was registered under the *Mortgage Brokers Act*, and the Superintendent had been notified under that Act that the individual was so employed or authorized.

Education exemption — agent under *Mortgage Brokers Act*, undertaking to complete education

14. An individual is exempt from satisfying the education requirement of paragraph 5 of subsection 10 (1) if all of the following circumstances apply:

1. The individual applies for a mortgage agent's licence before the effective date.

2. The individual is, on the date he or she applies for the licence, employed or authorized to arrange or deal in mortgages on behalf of a person who is registered under the *Mortgage Brokers Act*, and the Superintendent had been notified under that Act, before the date that the individual applies for the licence, that the individual was so employed or authorized.

3. The individual undertakes, as a condition of his or her licence, to successfully complete, before the second anniversary of the effective date, a program of education for mortgage agents approved by the Superintendent for the purpose of paragraph 5 of subsection 10 (1).

Issuance where prior application refused, prior licence revoked

15. An individual whose mortgage broker's or agent's licence has been revoked, or whose application for a mortgage broker's or agent's licence or for renewal of such licence has been refused, may apply for a mortgage agent's licence only if,

(a) 12 months have passed since the revocation or refusal; and

(b) the individual satisfies the Superintendent that new or other evidence is available or that material circumstances have changed.

Requirements for licence renewal

16. An individual is eligible to have his or her mortgage agent's licence renewed if all of the following requirements are satisfied:

1. The individual is a resident of Canada.

2. The individual has a mailing address in Ontario that is suitable to permit service by registered mail.

3. The individual is authorized by a brokerage to deal or trade in mortgages on its behalf.

Non-suitability to be licensed

17. In determining whether an applicant is not suitable to be licensed as a mortgage agent on an application for the licence or for its renewal, the Superintendent shall have regard to the following circumstances:

1. The individual's past conduct affords reasonable grounds for belief that he or she will not deal or trade in mortgages in accordance with the law and with integrity and honesty.

2. The individual is carrying on activities that contravene or will contravene the Act or the regulations if he or she is licensed.

3. The individual has made a false statement or has provided false information to the Superintendent with respect to the application for the licence or for its renewal.

CONSULTATION DRAFT REGULATION

under the

MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006

MORTGAGE ADMINISTRATORS - LICENSING

Note: This is a draft regulation for discussion purposes. Bill 65, the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, is not yet enacted.

INTERPRETATION

Definition

1. In this Regulation,

"effective date" means the day on which subsections 2 (2) and 3 (3) of the Act come into force.

ELIGIBILITY TO BE ISSUED A LICENCE

Corporations

2. (1) A corporation is eligible to be issued a mortgage administrator's licence if all of the following requirements are satisfied:

1. The corporation was incorporated under an Act of any jurisdiction in Canada.

2. The corporation has a mailing address in Ontario that is suitable to permit service by registered mail.

3. The corporation has errors and omissions insurance in a form approved by the Superintendent with extended coverage for loss resulting from fraudulent acts or it has some other form of assurance in a form approved by the Superintendent. The insurance or other assurance must be sufficient to pay a minimum of $500,000 in respect of any one occurrence involving the corporation or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the corporation and $1 million in respect of all occurrences during a 365-day period involving the corporation or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the corporation.

4. The corporation has a financial guarantee in an amount equal to $25,000. The financial guarantee may be an irrevocable letter of credit with a financial institution, unimpaired working capital, a surety bond issued by an insurer licensed under the *Insurance Act* or some other form of financial guarantee in a form approved by the Superintendent.

(2) Despite paragraphs 3 and 4 of subsection (1), a corporation that applies for the licence before the effective date is not required to have errors and omissions insurance or other assurance as described in paragraph 3 or a financial guarantee as described in paragraph 4 at the time of the application, but it must provide the Superintendent with satisfactory evidence that it will have the required errors and omissions insurance or other assurance and financial guarantee as of the effective date.

(3) In determining whether a corporation is not suitable to be licensed as a mortgage administrator, the Superintendent shall have regard to the following circumstances:

1. Having regard to its financial position, the corporation cannot reasonably be expected to be financially responsible in the conduct of its business.

2. The past conduct of any director or officer of the corporation affords reasonable grounds for belief that the business of the corporation will not be carried on in accordance with the law and with integrity and honesty.

3. The corporation is carrying on activities that contravene or will contravene the Act or the regulations if the corporation is licensed.

4. A director or officer of the corporation has made a false statement or has provided false information to the Superintendent with respect to the application for a licence.

Partnerships

3. (1) A partnership is eligible to be issued a mortgage administrator's licence if all of the following requirements are satisfied:

1. The partnership was formed under the law of any jurisdiction in Canada.

2. The partnership has a mailing address in Ontario that is suitable to permit service by registered mail.

3. The partnership has errors and omissions insurance in a form approved by the Superintendent with extended coverage for loss resulting from fraudulent acts or it has some other form of assurance in a form approved by the Superintendent. The insurance or other assurance must be sufficient to pay a minimum of $500,000 in respect of any one occurrence involving the partnership or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the partnership and $1 million in respect of all occurrences during a 365-day period involving the partnership or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the partnership.

4. The partnership has a financial guarantee in an amount equal to $25,000. The financial guarantee may be an irrevocable letter of credit with a financial institution, unimpaired working capital, a surety bond issued by an insurer licensed under the *Insurance Act* or some other form of financial guarantee in a form approved by the Superintendent.

(2) Despite paragraphs 3 and 4 of subsection (1), a partnership that applies for the licence before the effective date is not required to have errors and omissions insurance or other assurance as described in paragraph 3 or a financial guarantee as described in paragraph 4 at the time of the application, but it must provide the Superintendent with satisfactory evidence that it will have the required errors and omissions insurance or other assurance and financial guarantee as of the effective date.

(3) In determining whether a partnership is not suitable to be licensed as a mortgage administrator, the Superintendent shall have regard to the following circumstances:

1. Having regard to its financial position, the partnership cannot reasonably be expected to be financially responsible in the conduct of its business.

2. The past conduct of any partner affords reasonable grounds for belief that the business of the partnership will not be carried on in accordance with the law and with integrity and honesty.

3. The partnership or any partner is carrying on activities that contravene or will contravene the Act or the regulations if the partnership is licensed.

4. A partner has made a false statement or has provided false information to the Superintendent with respect to the application for a licence.

Sole proprietorships

4. (1) A sole proprietorship is eligible to be issued a mortgage administrator's licence if all of the following requirements are satisfied:

1. The proprietor is a resident of Canada.

2. The sole proprietorship has a mailing address in Ontario that is suitable to permit service by registered mail.

3. The sole proprietorship has errors and omissions insurance in a form approved by the Superintendent with extended coverage for loss resulting from fraudulent acts or it has some other form of assurance in a form approved by the Superintendent. The insurance or other assurance must be sufficient to pay a minimum of $500,000 in respect of any one occurrence involving the sole proprietorship or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the sole proprietorship and $1 million in respect of all occurrences during a 365-day period involving the sole proprietorship or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the sole proprietorship.

4. The sole proprietorship has a financial guarantee in an amount equal to $25,000. The financial guarantee may be an irrevocable letter of credit with a financial institution, unimpaired working capital, a surety bond issued by an insurer licensed under the *Insurance Act* or some other form of financial guarantee in a form approved by the Superintendent.

(2) Despite paragraphs 3 and 4 of subsection (1), a sole proprietorship that applies for the licence before the effective date is not required to have errors and omissions insurance or other assurance as described in paragraph 3 or a financial guarantee as described in paragraph 4 at the time of the application, but it must provide the Superintendent with satisfactory evidence that it will have the required errors and omissions insurance or other assurance and financial guarantee as of the effective date.

(3) In determining whether a sole proprietorship is not suitable to be licensed as a mortgage administrator, the Superintendent shall have regard to the following circumstances:

1. Having regard to its financial position, the sole proprietorship cannot reasonably be expected to be financially responsible in the conduct of its business.

2. The past conduct of the proprietor affords reasonable grounds for belief that the business of the sole proprietorship will not be carried on in accordance with the law and with integrity and honesty.

3. The sole proprietorship or the proprietor is carrying on activities that contravene or will contravene the Act or the regulations if the sole proprietorship is licensed.

4. The proprietor has made a false statement or has provided false information to the Superintendent with respect to the application for a licence.

LICENSEE'S NAME

Licensed names

5. (1) A corporation, partnership or sole proprietorship may be licensed as a mortgage administrator in its legal name and, if applicable, in one other name that is registered to it under the *Business Names Act*.

(2) Despite subsection (1), a corporation, partnership or sole proprietorship may not be licensed in a name that the Superintendent reasonably believes is,

(a) the same as or similar to the name of another mortgage administrator such that the use of that name by two mortgage administrators would be likely to confuse or mislead the public; or

(b) objectionable on any public grounds.

CONSULTATION DRAFT REGULATION

under the

MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006

PRINCIPAL BROKERS

Note: This is a draft regulation for discussion purposes. Bill 65, the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, is not yet enacted.

Definitions

1. In this Regulation,

"principal broker" means an individual designated by a brokerage as its principal broker under subsection 7 (6) of the Act;

"requirement established under the Act" means a requirement imposed by the Act or by a regulation, a condition of a licence, a requirement imposed by order or an obligation assumed by way of an undertaking.

Duties re ensuring compliance

2. A principal broker shall,

(a) take reasonable steps to ensure that the brokerage, and each broker and agent authorized to deal or trade in mortgages on its behalf, complies with every requirement established under the Act; and

(b) ensure that the brokerage takes reasonable steps to deal with any contravention of a requirement established under the Act by the brokerage or by a broker and agent authorized to deal or trade in mortgages on its behalf.

Duties re brokerage's compliance policies and procedures

3. (1) A principal broker shall review the policies and procedures of the brokerage to determine whether they are reasonably designed to ensure,

(a) that the brokerage, and each broker and agent authorized to deal or trade in mortgages on its behalf, comply with every requirement established under the Act; and

(b) that each broker and agent authorized to deal or trade in mortgages on behalf of the brokerage is adequately supervised.

(2) A principal broker shall recommend to the brokerage that it make changes in its policies and procedures, if necessary, to ensure the matters described in clauses (1) (a) and (b).

Duties re certifying trust statement

4. A principal broker shall sign and date any trust account reconciliation statement prepared by the brokerage to indicate that he or she has reviewed it and certifies that it is accurate.

CONSULTATION DRAFT REGULATION

under the

MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006

STANDARDS OF PRACTICE - MORTGAGE BROKERAGES

Note: This is a draft regulation for discussion purposes. Bill 65, the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, is not yet enacted.

CONTENTS

INTERPRETATION

1. Definitions

REPRESENTATIONS TO THE PUBLIC

2. Name
3. Advertisements, etc.
4. Disclosure of name and licence number on request
5. Misrepresentation, etc.
6. Representation re setting of fees

INTERNAL GOVERNANCE

7. Determination of qualifications of brokers and agents
8. Brokers, agents must be licensed
9. Other brokerage's brokers, agents
10. Reports to Superintendent re brokers, agents
11. Qualifications of principal broker
12. Report to Superintendent re principal broker designation
13. Complaints process
14. Compliance and supervision policies and procedures
15. Insurance

GENERAL STANDARDS OF PRACTICE

16. Unlawful mortgage
17. Specific property required
18. Suitability of mortgage for borrower, lender, investor
19. No guarantee of investment
20. Timing of payment for services by borrower
21. Fees payable only to licensed brokerages or exempt persons
22. No fees to other brokerages' brokers, agents
23. Brokerage's other businesses
24. Coercive tied selling
25. Documents returned to owner
26. Use of forms

OBLIGATIONS TO OBTAIN AND DISCLOSE INFORMATION

VERIFICATION AND ACCURACY OF INFORMATION

27. Verification of identity
28. Accuracy of information

DISCLOSURE ON REFERRALS

29. Disclosure on referrals

DISCLOSURE TO BORROWERS

30. Disclosure to borrower re fees
31. Disclosure to borrower re other payments
32. Disclosure to borrower re risks, benefits
33. Disclosure to borrower re conflict of interest
34. Reverse mortgage, borrower's independent legal advice

DISCLOSURE TO LENDERS

35. Disclosure to lender re fees
36. Disclosure to lender re risks, benefits
37. Disclosure to lender re conflict of interest

DISCLOSURE TO INVESTORS

38. Disclosure to investor re fees
39. Disclosure to investor re risks, benefits
40. Disclosure to investor re conflict of interest
41. Disclosure to investor re conflict of interest — brokerage acting as principal

DOCUMENTS

42. Documents to lender, investor
43. Documents to lender on renewal of mortgage

DISCLOSURE IF MORTGAGE PREVIOUSLY IN DEFAULT

44. Disclosure if mortgage previously in default

RULES RE DISCLOSURES, ETC.

45. Rules re disclosures, etc.

TRUST FUNDS

46. Trust funds
47. Trust account
48. Receipt of trust funds
49. Records of trust money transactions
50. Monthly reconciliation
51. Shortfall

REPORTS AND RECORDKEEPING

52. Address for service
53. E-mail address
54. Places of business
55. Change in directors, officers, partners
56. Change in significant interest in corporation
57. Annual information return
58. Financial records
59. Recordkeeping

PART I
INTERPRETATION

Definitions

1. In this Regulation,

"borrower", "lender" and "investor" include a prospective borrower, lender or investor where appropriate in the context;

"business day" means a day other than a Saturday or a holiday;

"commitment" means a document issued by or on behalf of a lender that states that the lender will enter into a mortgage and which, when agreed to by the borrower, forms a binding agreement;

"effective date' means the date on which subsections 2 (3) and 3 (3) of the Act come into force;

"investor" means a person or entity that makes an investment in a mortgage;

"requirement established under the Act" means a requirement imposed by the Act or by a regulation, a condition of a licence, a requirement imposed by order or an obligation assumed by way of an undertaking;

"specified person or entity" means,

(a) a brokerage, when acting on its own behalf,

(b) a financial institution,

(c) the Crown in right of Ontario, Canada or any province of Canada,

(d) a corporation that is a subsidiary of a person or entity described in clause (a), (b) or (c),

(e) a corporation that is an approved lender under the *National Housing Act* (Canada),

(f) a pension fund,

(g) a person or entity registered under the *Securities Act* as an advisor or dealer, other than a limited market dealer, where that person or entity acts as a principal or as an agent or trustee for accounts that are fully managed by the person or entity,

(h) a person or entity registered under securities legislation in another province or territory of Canada in a manner comparable to that described in clause (g) and acting in the capacity described in clause (g),

(i) an individual who provides confirmation to the brokerage, in a form approved by the Superintendent, that he or she, alone or together with a spouse, beneficially owns financial assets (being cash, securities within the meaning of the *Securities Act*, the cash surrender value of a life insurance contract, a deposit or evidence of a deposit) having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds $1 million,

(j) an individual who provides confirmation to the brokerage, in a form approved by the Superintendent, that his or her net income before taxes exceeded $200,000 in each of the two most recent years or his or her net income before taxes combined with that of a spouse exceeded $300,000 in each of those two years and that the individual, in either case, has a reasonable expectation of exceeding the same net income in the current year,

(k) an individual who provides confirmation to the brokerage, in a form approved by the Superintendent, that he or she, alone or together with a spouse, has net assets of at least $5 million, or

(l) a person or entity, other than an individual, that provides confirmation to the brokerage, in a form approved by the Superintendent, that it has net assets of at least $5 million as reflected in its most recently prepared financial statement;

"spouse" means spouse as defined in section 29 of the *Family Law Act*;

"syndicated mortgage" means a mortgage involving two or more lenders;

"trade completion date" means the earlier of,

(a) the date on which an investor, or a brokerage on behalf of an investor, enters into an agreement to trade in a mortgage, or

(b) the date the trade in a mortgage is completed.

PART II
REPRESENTATIONS TO THE PUBLIC

Name

2. A brokerage shall not carry on business in a name other than a name in which it is licensed.

Advertisements, etc.

3. (1) A brokerage shall clearly and prominently disclose a name in which it is licensed and its licence number in all of its advertisements and in any materials that it uses in connection with its carrying on business.

(2) A brokerage that identifies a broker or agent by name in an advertisement or in any material that the brokerage uses in connection with its carrying on business shall identify the broker or agent by the name in which the broker or agent is licensed and shall disclose the broker's or agent's licence number.

(3) A brokerage shall not make a false, misleading or deceptive statement in an advertisement or in any material that it uses in connection with its carrying on business.

(4) A brokerage shall use the following titles when referring to a brokerage, broker or agent in any advertisement or in any material that it uses in connection with its carrying on business:

1. In reference to itself or any other brokerage, "mortgage brokerage", "brokerage", "maison de courtage d'hypothèques" or "maison de courtage", an abbreviation or an equivalent in another language.

2. In reference to a broker, "mortgage broker", "broker", "courtier en hypothèques" or "courtier", an abbreviation or an equivalent in another language.

3. In reference to an agent, "mortgage agent", "agent" or "agent en hypothèques", an abbreviation or an equivalent in another language.

(5) The titles required by subsection (4) need not be used with every reference to a brokerage, broker or agent, but shall be used at least once in an advertisement or other material that refers to a brokerage, broker or agent.

(6) This section applies to advertisements and materials that are published, circulated or broadcast by any means.

Disclosure of name and licence number on request

4. A brokerage shall give any person or entity who makes a request,

(a) the brokerage's licence number;

(b) the name and licence number of any broker or agent authorized to deal or trade in mortgages on its behalf.

Misrepresentation, etc.

5. A brokerage shall not,

(a) make a false, misleading or deceptive representation to a borrower, lender or investor;

(b) conduct itself in a manner that misleads or deceives any person or entity, or is likely to mislead or deceive any person or entity;

(c) unduly pressure a borrower, lender or investor;

(d) use information obtained in the course of carrying on business for any purpose other than that for which it was obtained without the written consent of the person or entity who is the subject of the information; or

(e) participate in any unlawful activities, whether or not related to its business of dealing or trading in mortgages or to its business as a mortgage lender.

Representation re setting of fees

6. A brokerage shall not, directly or indirectly, represent to any person or entity that any amounts payable to the brokerage in connection with its carrying on business are set or approved by any government authority.

PART III
INTERNAL GOVERNANCE

Determination of qualifications of brokers and agents

7. A brokerage shall not authorize an individual to deal or trade in mortgages on its behalf unless that individual satisfies the prescribed requirements to be licensed as a broker or agent.

Brokers, agents must be licensed

8. A brokerage shall not permit an employee or other individual who is authorized to act on its behalf to engage in any activity that requires a licence under the Act unless that

employee or other individual is permitted to engage in that activity by the licence issued to him or her.

Other brokerage's brokers, agents

9. A brokerage shall not authorize a broker or agent to deal or trade in mortgages on its behalf if the brokerage knows or reasonably ought to know that the broker or agent is authorized to deal or trade in mortgages on behalf of another brokerage.

Reports to Superintendent re brokers, agents

10. (1) A brokerage shall report to the Superintendent if a broker or agent ceases to be authorized to deal or trade in mortgages on its behalf, and shall do so within five days after the broker or agent ceases to be so authorized.

(2) A brokerage shall promptly report to the Superintendent if the brokerage has reasonable grounds to believe that a broker or agent is no longer suitable to be licensed as a broker or agent.

Qualifications of principal broker

11. (1) A brokerage may designate an individual as its principal broker if the individual satisfies both of the following requirements:

1. The individual is a mortgage broker authorized to deal or trade in mortgages on behalf of the brokerage.

2. The individual is,

    i. if the brokerage is a corporation, a director or officer of the corporation,

    ii. if the brokerage is a partnership, other than a limited liability partnership, a partner,

    iii. if the brokerage is a limited liability partnership, a general partner,

    iv. if the brokerage is a sole proprietorship, the sole proprietor.

(2) A brokerage shall have only one principal broker at any time.

Report to Superintendent re principal broker designation

12. A brokerage shall inform the Superintendent of the name of the individual designated to be the brokerage's principal broker,

(a) within 10 days after the later of the effective date and the day the brokerage is issued its brokerage licence; and

(b) within five days after the brokerage designates a new principal broker to replace a prior principal broker.

Complaints process

13. (1) A brokerage shall,

(a) designate an individual employed by or otherwise authorized to act on behalf of the brokerage to be the brokerage's complaints officer; and

(b) authorize the complaints officer to receive and attempt to resolve all complaints from any person or entity respecting the brokerage or any broker or agent authorized to deal or trade in mortgages on behalf of the brokerage.

(2) A brokerage shall,

(a) give each complainant who submits a written complaint to the brokerage a written response to the complaint, setting out the brokerage's proposed resolution of the complaint and advising that the complainant may refer the complaint to the Superintendent if the complainant is not satisfied by the brokerage's proposed resolution; and

(b) keep a record of all complaints received by the brokerage and all the responses given to complainants.

Compliance and supervision policies and procedures

14. A brokerage shall establish and implement policies and procedures reasonably designed to ensure,

(a) that the brokerage, and each broker and agent authorized to deal or trade in mortgages on its behalf, comply with every requirement established under the Act; and

(b) that each broker and agent authorized to deal or trade in mortgages on its behalf is adequately supervised.

Insurance

15. (1) A brokerage shall at all times maintain errors and omissions insurance with extended coverage for loss resulting from fraudulent acts or have some other form of assurance.

(2) The errors and omissions insurance or other assurance required by subsection (1) must be,

(a) in a form approved by the Superintendent; and

(b) sufficient to pay a minimum of $500,000 in respect of any one occurrence involving the brokerage or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the brokerage and $1 million in respect of all occurrences during a 365-day period involving the brokerage or any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the brokerage.

PART IV
GENERAL STANDARDS OF PRACTICE

Unlawful mortgage

16. A brokerage shall not act for a borrower, lender or investor in respect of a mortgage if the brokerage has reasonable grounds to believe that the mortgage, its renewal or the investment in it is unlawful.

Specific property required

17. (1) A brokerage shall not receive money from a lender or enter into an agreement to receive money from a lender unless an application has been made for a mortgage on a specific property.

(2) A brokerage shall not receive money from an investor or enter into an agreement to receive money from an investor unless an existing mortgage is available on a specific property.

Suitability of mortgage for borrower, lender, investor

18. (1) A brokerage shall take reasonable steps to ensure that,

(a) any mortgage it recommends to a borrower is suitable for the borrower, having regard to the borrower's needs and circumstances;

(b) any mortgage it recommends to a lender is suitable for the lender, having regard to the lender's needs and circumstances; and

(c) any investment in a mortgage it recommends to an investor for whom the brokerage is acting is suitable for the investor, having regard to the investor's needs and circumstances.

(2) Clauses (1) (b) and (c) do not apply where the lender or investor is another brokerage or a financial institution.

No guarantee of investment

19. A brokerage shall not, directly or indirectly, offer or make any guarantee in respect of a mortgage or an investment in a mortgage.

Timing of payment for services by borrower

20. (1) A brokerage shall not require or accept payment or security for payment, directly or indirectly, from or on behalf of a borrower for services provided or expenses incurred by the brokerage or by another person or entity unless and until the earlier of,

(a) the borrower signing a commitment; and

(b) the borrower signing a mortgage instrument,

or, in the case of a renewal of a mortgage, unless and until the lender and borrower enter into a mortgage renewal agreement.

(2) Subsection (1) does not apply with respect to a mortgage the principal amount of which is greater than $300,000.

Fees payable only to licensed brokerages or exempt persons

21. A brokerage shall not pay a fee or other remuneration to any person or entity that carries on the business of dealing or trading in mortgages unless, at the time of the activity for which the fee or other remuneration is paid, the person or entity was licensed as a brokerage or was not required to be licensed.

No fees to other brokerages' brokers, agents

22. A brokerage shall not pay a fee or other remuneration for dealing or trading in mortgages to a broker or agent that the brokerage knows or reasonably ought to know is authorized to deal or trade in mortgages on behalf of another brokerage.

Brokerage's other businesses

23. A brokerage that engages in another business concurrently with carrying on the business of dealing or trading in mortgages or as a mortgage lender shall not allow such other business to jeopardize its integrity, independence or competence when carrying on the business of dealing or trading in mortgages or as a mortgage lender.

Coercive tied selling

24. (1) A brokerage shall not coerce a borrower, lender or investor to obtain a product or service from a particular person or entity, including the brokerage, as a condition for obtaining another service from the brokerage.

(2) A brokerage shall not be considered to be coercing a borrower, lender or investor under subsection (1) if the brokerage offers a service to a borrower, lender or investor on more favourable terms than the brokerage would otherwise offer, where the more favourable terms are offered on the condition that the borrower, lender or investor obtain another product or service from a particular person or entity, including the brokerage.

Documents returned to owner

25. (1) A brokerage shall not unreasonably withhold any document from its owner.

(2) A brokerage shall promptly return a document to its owner, without charge, when requested in writing to do so by the owner, the owner's agent or the Superintendent.

Use of forms

26. Where a form is approved by the Superintendent for a purpose under the Act, a brokerage shall ensure that the forms used by the brokerage and by its brokers and agents are the current approved versions of them.

PART V
OBLIGATIONS TO OBTAIN AND DISCLOSE INFORMATION

VERIFICATION AND ACCURACY OF INFORMATION

Verification of identity

27. (1) A brokerage shall take reasonable steps to verify the identity of each borrower before submitting a mortgage application to a lender or arranging for a mortgage renewal agreement with a lender, and shall advise the lender if it is unable to do so.

(2) A brokerage shall take reasonable steps to verify the identity of the lender or, in the case of a syndicated mortgage, each lender, before the borrower signs a commitment, a mortgage instrument or a mortgage renewal agreement, and shall advise the borrower if it is unable to do so.

(3) A brokerage that is a lender shall take reasonable steps to verify the identity of each borrower for each mortgage loan it makes or renews.

(4) A brokerage shall take reasonable steps to verify the identity of each investor in a trade in mortgages, other than an investor for whom another brokerage is acting, before the trade completion date.

(5) Subsection (2) does not apply where the lender is required by law to verify the identity of the borrower.

Accuracy of information

28. (1) If a brokerage has reason to doubt the accuracy of information contained in a borrower's mortgage application or a document submitted in support of an application, the brokerage shall so advise the lender or, in the case of a syndicated mortgage, each lender, at the earliest opportunity.

(2) If a brokerage has reason to doubt a borrower's legal authority to mortgage a property, the brokerage shall so advise the lender, or, in the case of a syndicated mortgage, each lender, at the earliest opportunity.

DISCLOSURE ON REFERRALS

Disclosure on referrals

29. A brokerage that refers a person or entity to another person or entity for a fee or other remuneration shall, before or at the time of making the referral, advise the person or entity being referred,

(a) that the brokerage has received o will or may receive a fee or other remuneration, whether directly or indirectly, for making the referral; and

(b) of the nature of the relationship between the brokerage and the person or entity to whom the referral is being made.

Disclosure to Borrowers

Disclosure to borrower re fees

30. (1) A brokerage shall disclose in writing to a borrower any amounts that will be payable by the borrower to the brokerage for its services or expenses, or the manner in which such amounts will be determined, the manner and time of payment of such amounts and the terms, if any, on which the payments are refundable.

(2) The disclosure required by subsection (1) shall be made at the earliest opportunity and no later than before the brokerage provides any services to the borrower or incurs any expenses on behalf of the borrower for which the brokerage will seek payment from the borrower.

Disclosure to borrower re other payments

31. (1) A brokerage shall disclose in writing to the borrower,

(a) whether it has received or will or may receive a fee or other remuneration, directly or indirectly, in connection with the mortgage or renewal;

(b) whether it has paid or will or may pay a fee or other remuneration, directly or indirectly, to another person or entity in connection with the mortgage or renewal; and

(c) if a fee or other remuneration has been or will or may be received or paid as described in clause (a) or (b), the identity of the payer or payee, as the case may be, and, if the remuneration is other than a fee, the nature of that remuneration.

(2) Subject to subsection (3), the disclosure required by subsection (1) shall be made at the earliest opportunity and no later than two business days before the earlier of,

(a) the borrower signing a commitment; and

(b) the borrower signing a mortgage instrument,

or, in the case of a renewal of a mortgage, no later than two business days before the lender and borrower enter into a mortgage renewal agreement.

(3) The time period set out in subsection (2) may be waived in writing by the borrower and, if it is, the disclosure under subsection (1) shall be made before the borrower signs a commitment or mortgage instrument.

(4) A brokerage shall obtain the borrower's written acknowledgement that the brokerage disclosed the information required by subsection (1).

Disclosure to borrower re risks, benefits

32. (1) A brokerage shall disclose in writing to the borrower the risks and benefits of each mortgage that the brokerage proposes.

(2) Subject to subsection (3), the disclosure required by subsection (1) shall be made at the earliest opportunity and no later than two business days before the earlier of,

(a) the borrower signing a commitment; and

(b) the borrower signing a mortgage instrument.

(3) The time period set out in subsection (2) may be waived in writing by the borrower and, if it is, the disclosure under subsection (1) shall be made before the borrower signs a commitment or mortgage instrument.

(4) Subsection (1) does not apply where the borrower is a specified person or entity.

Disclosure to borrower re conflict of interest

33. (1) A brokerage shall disclose in writing to the borrower,

(a) the nature of its relationship with the lender or, in the case of a syndicated mortgage, each lender;

(b) if the mortgage is not a syndicated mortgage, the proportion of mortgages which the brokerage has arranged with the lender in the last calendar year, expressed as a percentage of the total number of mortgages arranged by the brokerage in the last calendar year;

(c) the number of lenders, other than lenders in syndicated mortgages, with whom the brokerage arranged mortgages in the last calendar year; and

(d) any conflict of interest or potential conflict of interest that the brokerage, or a broker or agent authorized to deal or trade in mortgages on the brokerage's behalf, may have in relation to the mortgage.

(2) Subject to subsection (3), the disclosure required by subsection (1) shall be made at the earliest opportunity and no later than two business days before the earlier of,

(a) the borrower signing a commitment; and

(b) the borrower signing a mortgage instrument.

(3) The time period set out in subsection (2) may be waived in writing by the borrower and, if it is, the disclosure under subsection (1) shall be made before the borrower signs a commitment or mortgage instrument.

(4) A brokerage shall obtain the borrower's written acknowledgment that the brokerage disclosed the information required by subsection (1).

Reverse mortgage, borrower's independent legal advice

34. (1) A brokerage shall not arrange or enter into a reverse mortgage with a borrower unless the brokerage has received from the borrower a written statement signed by a lawyer

stating that the lawyer has given the borrower independent legal advice with respect to the reverse mortgage.

(2) The statement required by subsection (1) must be received by the brokerage before the earlier of,

(a) the borrower signing a commitment; and

(b) the borrower signing a mortgage instrument.

(3) In this section,

"reverse mortgage" means a mortgage in which,

(a) the money advanced is not required to be repaid until the occurrence of one or more of,

(i) the death of the borrower,

(ii) the acquisition by the borrower of another dwelling for use as the borrower's principal residence,

(iii) the sale of the mortgaged property,

(iv) the borrower vacating the mortgaged property to live elsewhere with no reasonable prospect of returning, or

(v) the lender exercising the legal right to take possession of the mortgaged property under the terms of the mortgage, and

(b) while the borrower continues to occupy the mortgaged property as his or her principal residence,

(i) no instalment repayments of the principal and no payment of interest on the principal are due or capable of becoming due,

(ii) although interest payments may become due, no full or partial repayment of the principal is due or capable of becoming due, or

(iii) although interest payments and partial repayment of the principal may become due, full repayment of the principal is not due or capable of becoming due.

DISCLOSURE TO LENDERS

Disclosure to lender re fees

35. (1) A brokerage shall disclose in writing to a lender any amounts that will be payable by the lender to the brokerage for its services or expenses, or the manner in which such amounts will be determined, the manner and time of payment of such amounts and the terms, if any, on which the payments are refundable.

(2) The disclosure required by subsection (1) shall be made at the earliest opportunity and no later than before the brokerage provides any services to the lender or incurs any expenses on behalf of the lender for which the brokerage will seek payment from the lender.

(3) Subsection (1) does not apply where the lender is another brokerage or a financial institution.

Disclosure to lender re risks, benefits

36. (1) A brokerage shall disclose in writing to the lender or, in the case of a syndicated mortgage, to each lender, the risks and benefits of each mortgage that the brokerage proposes.

(2) Subject to subsection (3), the disclosure required by subsection (1) shall be made at the earliest opportunity and no later than two business days before the earliest of,

(a) the brokerage receiving money from the lender;

(b) the brokerage entering into an agreement to receive money from the lender;

(c) the lender signing a commitment; and

(d) the brokerage issuing a commitment on the lender's behalf.

(3) The time period set out in subsection (2) may be reduced to one business day before the earliest of clauses (2) (a), (b), (c) and (d) with the written consent of the lender.

(4) Subsection (1) does not apply where the lender is a specified person or entity.

Disclosure to lender re conflict of interest

37. (1) A brokerage shall disclose in writing to the lender or, in the case of a syndicated mortgage, to each lender,

(a) the nature of its relationship with each borrower; and

(b) any conflict of interest or potential conflict of interest that the brokerage, or a broker or agent authorized to deal or trade in mortgages on the brokerage's behalf, may have in relation to the mortgage.

(2) Subject to subsection (3), the disclosure required by subsection (1) shall be made at the earliest opportunity and no later than two business days before the earliest of,

(a) the brokerage receiving money from the lender;

(b) the brokerage entering into an agreement to receive money from the lender;

(c) the lender signing a commitment; and

(d) the brokerage issuing a commitment on the lender's behalf.

(3) The time period set out in subsection (2) may be reduced to one business day before the earliest of clauses (2) (a), (b), (c) and (d) with the written consent of the lender.

(4) A brokerage shall obtain the lender's written acknowledgment that the brokerage disclosed the information required by subsection (1).

(5) Subsections (1) and (4) do not apply where the lender is another brokerage or a financial institution.

DISCLOSURE TO INVESTORS

Disclosure to investor re fees

38. (1) A brokerage shall disclose in writing to an investor any amounts that will be payable by the investor to the brokerage for its services or expenses, or the manner in which such amounts will be determined, the manner and time of payment of such amounts and the terms, if any, on which the payments are refundable.

(2) The disclosure required by subsection (1) shall be made at the earliest opportunity and no later than before the brokerage provides any services to the investor or incurs any expenses on behalf of the investor for which the brokerage will seek payment from the investor.

Disclosure to investor re risks, benefits

39. (1) A brokerage shall disclose in writing to an investor for whom the brokerage is acting the risks and benefits of any trade in mortgages that the brokerage proposes.

(2) Subject to subsection (3), the disclosure required by subsection (1) shall be made at the earliest opportunity and no later than two business days before the trade completion date.

(3) The time period set out in subsection (2) may be reduced to one business day before the trade completion date with the written consent of the investor.

(4) Subsection (1) does not apply where the investor is a specified person or entity.

Disclosure to investor re conflict of interest

40. (1) A brokerage shall disclose in writing to the investor for whom the brokerage is acting,

(a) the nature of the brokerage's relationship with the person or entity with whom the brokerage is trading in mortgages on behalf of the investor; and

(b) any conflict of interest or potential conflict of interest that the brokerage, or a broker or agent authorized to deal or trade in mortgages on the brokerage's behalf, may have in relation to the mortgage or investment in a mortgage being traded.

(2) Subject to subsection (3), the disclosure required by subsection (1) shall be made at the earliest opportunity and no later than two business days before the trade completion date.

(3) The time period set out in subsection (2) may be reduced to one business day before the trade completion date with the written consent of the investor for whom the brokerage is acting.

(4) A brokerage shall obtain a written acknowledgment from the investor for whom the brokerage is acting that the brokerage disclosed the information required by subsection (1).

(5) Subsections (1) and (3) do not apply where the investor for whom the brokerage is acting is another brokerage or a financial institution.

Disclosure to investor re conflict of interest — brokerage acting as principal

41. (1) A brokerage that trades in mortgages on its own behalf shall disclose in writing to an investor to whom the brokerage sells or with whom the brokerage exchanges a mortgage any conflict of interest or potential conflict of interest that the brokerage, or a broker or agent authorized to deal or trade in mortgages on the brokerage's behalf, may have in relation to the mortgage or investment in a mortgage being traded.

(2) Subject to subsection (3), the disclosure required by subsection (1) shall be made at the earliest opportunity and no later than two business days before the trade completion date.

(3) The time period set out in subsection (2) may be reduced to one business day before the trade completion date with the written consent of the investor with whom the brokerage is trading.

(4) A brokerage shall obtain a written acknowledgment from the investor with whom the brokerage is trading that the brokerage disclosed the information required by subsection (1).

(5) Subsections (1) and (3) do not apply where the investor with whom the brokerage is trading is another brokerage or a financial institution or where another brokerage is acting for that investor in the trade.

DOCUMENTS

Documents to lender, investor

42. (1) A brokerage shall give a lender or an investor who is buying or acquiring by way of exchange a mortgage or an investment in a mortgage, other than an investor for whom another brokerage is acting, the following documents and information with respect to a mortgage or a investment in a mortgage:

1. A completed disclosure form, in a form approved by the Superintendent, signed by a broker.

2. If the investment is in an existing mortgage, a copy of the mortgage instrument.

3. If an appraisal of the property has been done in the preceding 12 months and is available to the brokerage, a copy of the appraisal.

4. If an appraisal of the property is not available as described in paragraph 3, documentary evidence of the property's value, other than an agreement of purchase and sale.

5. If an agreement of purchase and sale in respect of the property has been entered into in the preceding 12 months and is available to the brokerage, a copy of the agreement of purchase and sale.

6. Documentary evidence of the borrower's ability to meet the mortgage payments.

7. A copy of the application for the mortgage and of any document submitted in support of the application.

8. If the mortgage is a new mortgage, documentary evidence of any down payment made by the borrower for the purchase of the property.

9. A copy of any agreement that the lender or investor may be asked to enter into with the brokerage.

10. All other information, in writing, that a lender or investor of ordinary prudence would consider to be material to a decision whether to lend money on the security of the property or to invest in the mortgage.

(2) Subject to subsection (3), the documents and information required by subsection (1) shall be given at the earliest opportunity and no later than two business days before the earliest of,

(a) the brokerage receiving money from the lender or investor;

(b) the brokerage entering into an agreement to receive money from the lender or investor;

(c) the lender signing a commitment;

(d) the brokerage issuing a commitment on the lender's behalf;

(e) the money being advanced to the borrower; and

(f) the trade completion date.

(3) The time period set out in subsection (2) may be reduced to one business day before the earliest of clauses (2) (a), (b), (c), (d), (e) and (f) with the written consent of the lender or investor.

(4) A brokerage shall obtain the lender's or investor's written acknowledgement that the brokerage disclosed the documents and information required by subsection (1).

(5) Subsections (1) and (4) do not apply where the lender or investor is a specified person or entity or, in the case of the investor with whom the brokerage is trading in mortgages when the brokerage is acting on its own behalf, if another brokerage is acting for that investor in the trade.

Documents to lender on renewal of mortgage

43. (1) A brokerage shall give a lender the following documents and information with respect to a renewal of a mortgage:

1. A completed renewal disclosure form, in a form approved by the Superintendent, signed by a broker or agent.

2. If an appraisal of the property has been done in the preceding 12 months and is available to the brokerage, a copy of the appraisal.

3. If an agreement of purchase and sale in respect of the property has been entered into in the preceding 12 months and is available to the brokerage, a copy of the agreement of purchase and sale.

4. All other information, in writing, that a lender of ordinary prudence would consider to be material to a decision whether to renew the mortgage.

(2) Subject to subsection (3), the documents and information required by subsection (1) shall be given at least two business days before the lender enters into a mortgage renewal agreement.

(3) The time period set out in subsection (2) may be reduced to one business day before the lender enters into a mortgage renewal agreement with the written consent of the lender.

(4) A brokerage shall obtain the lender's written acknowledgement that the brokerage disclosed the documents and information required by subsection (1).

(5) Subsections (1) and (4) do not apply where the lender is a specified person or entity.

DISCLOSURE IF MORTGAGE PREVIOUSLY IN DEFAULT

Disclosure if mortgage previously in default

44. (1) A brokerage shall not sell, attempt to sell or arrange or attempt to arrange the sale of a mortgage that has been in default at any time in the preceding 12 months unless the brokerage has informed the investor of the amount and length of the default.

(2) A brokerage shall obtain the investor's written acknowledgement that the brokerage disclosed the information required by subsection (1).

RULES RE DISCLOSURES, ETC.

Rules re disclosures, etc.

45. (1) A disclosure of information required by this Regulation may be based on an assumption or estimate if,

(a) the assumption or estimate is reasonable;

(b) the information required to be disclosed cannot be known by the brokerage when it makes the disclosure; and

(c) the brokerage advises the person or entity to whom the disclosure is made that the information being disclosed is based on an assumption or estimate.

(2) A disclosure, waiver, consent or acknowledgement that is required by this Regulation to be in writing must be in plain language that is clear and concise and it must be presented in a manner that is logical and likely to bring to the recipient's attention the information that is required to be conveyed.

(3) If the recipient of a disclosure, waiver, consent or acknowledgement required by this Regulation consents in writing, the disclosure, waiver, consent or acknowledgement may be provided by electronic means in an electronic format that the recipient can retrieve and retain.

PART VI
TRUST FUNDS

Trust funds

46. All money that a brokerage receives from a borrower, lender or investor in connection with its carrying on business is deemed to be money in trust, other than money,

(a) payable to the brokerage for its services or expenses; or

(b) payable under a mortgage for which the brokerage is the mortgage lender.

Trust account

47. (1) A brokerage that receives money in trust shall maintain in Ontario a trust account designated as the "Mortgage Brokerage Trust Account" in,

(a) a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada);

(b) a credit union or caisse populaire to which the *Credit Unions and Caisses Populaires Act, 1994* applies; or

(c) a corporation registered under the *Loan and Trust Corporations Act.*

(2) A brokerage shall not maintain more than one trust account without the Superintendent's written consent, obtained in advance.

(3) A brokerage shall give the Superintendent a copy of the trust account agreement with the financial institution within 10 days after the effective date or the date the account is opened, whichever is later.

(4) A brokerage shall give the Superintendent a copy of any changes to the trust account agreement, within five days after the change is made.

Receipt of trust funds

48. (1) A brokerage shall maintain money in trust separate and apart from money belonging to the brokerage.

(2) A brokerage shall deposit money that it receives in trust into the brokerage's trust account within two business days after its receipt.

(3) A brokerage shall give the person or entity from whom the brokerage receives money in trust a written statement which clearly discloses the following:

1. The amount of money in trust that came into the brokerage's hands.

2. The date the money came into the brokerage's hands.

3. The name of the person or entity from whom the money was received and, if the money was received on behalf of another person or entity, the name of that person or entity.

4. The purpose of receiving the money, including the mortgage to which the money in trust relates, if any.

5. The terms on which the brokerage holds the money in trust.

6. The name of the broker or agent who received the money on behalf of the brokerage.

(4) Unless otherwise agreed to in writing by the beneficial owner of the money in trust, any interest earned on money in trust shall be paid to the beneficial owner of the money in trust.

(5) A brokerage shall not disburse any money in trust except in accordance with the terms upon which the money in trust was received by the brokerage.

Records of trust money transactions

49. A brokerage shall make a written record of the receipt of all money in trust that comes into the brokerage's hands in connection with its carrying on business, and of every transaction relating to that money, including the following information:

1. The information described in paragraphs 1 to 6 of subsection 48 (3).

2. With respect to every deposit into the trust account maintained under section 47,

    i. the amount of the deposit,

    ii. the date the deposit was made,

    iii. the name of the person or entity from whom the money was received, and

    iv. the purpose of the deposit, including the mortgage, if any, to which the money relates.

3. With respect to every disbursement from the trust account maintained under section 47,

    i. the amount of the disbursement,

    ii. the date the disbursement was made,

    iii. the name of the person or entity to whom the money was disbursed, and

    iv. the purpose of the disbursement, including the mortgage, if any, to which the disbursement relates.

4. With respect to every payment of interest on money held in the trust account maintained under section 47,

    i. a way of identifying the money in trust to which the interest relates,

    ii. the amount of the interest, and

    iii. the date the interest was paid.

Monthly reconciliation

50. (1) A brokerage shall prepare a trust account reconciliation statement for each trust account maintained under section 47 not later than,

(a) in the case of a brokerage that receives a monthly account statement from the financial institution where the account is maintained, 30 days after the date the monthly account statement is received; and

(b) in any other case, 30 days after the last day of each month.

(2) The reconciliation statement shall,

(a) identify the differences, if any, between the brokerage's records and the records of the financial institution where the account is maintained, as of,

(i) the date of the account statement from the financial institution, if clause (1) (a) applies, and

(ii) the last day of the month to which the reconciliation statement relates, if clause (1) (b) applies; and

(b) identify the balances in the trust account that are owing to each person or entity as of,

(i) the date of the account statement from the financial institution, if clause (1) (a) applies, and

(ii) the last day of the month to which the reconciliation statement relates, if clause (1) (b) applies.

(3) The brokerage's principal broker shall, within the applicable time set out in subsection (1),

(a) review the reconciliation statement; and

(b) sign and date the reconciliation statement to indicate that he or she has reviewed it and certifies that it is accurate.

Shortfall

51. If a brokerage determines that there is a shortfall in the trust account maintained under section 47, the brokerage shall promptly report the shortfall to the Superintendent.

PART VII
REPORTS AND RECORDKEEPING

Address for service

52. A brokerage shall at all times maintain a mailing address in Ontario that is suitable to permit service by registered mail, and shall report any change in its address to the Superintendent within five days after it occurs.

E-mail address

53. A brokerage shall at all times maintain an e-mail address, and shall report any change in its e-mail address to the Superintendent within five days after it occurs.

Places of business

54. (1) A brokerage shall report to the Superintendent the following:

1. A change in the location of its principal place of business in Ontario.

2. A change in the location of any its offices in Ontario that are open to the public.

3. The opening or closing of an office in Ontario that is open to the public.

(2) If a brokerage's principal place of business in Ontario is in a place that is used as a dwelling, the brokerage shall designate a room or area of the dwelling as the principal place of business and shall inform the Superintendent of the room or area so designated.

(3) A report under subsection (1) shall be made within five days after the change occurs.

Change in directors, officers, partners

55. (1) A brokerage shall report to the Superintendent the following:

1. If the brokerage is a corporation, a change in its directors or officers.

2. If the brokerage is a partnership, a change in its partners.

(2) A report under subsection (1) shall be made within five days after the change occurs.

Change in significant interest in corporation

56. (1) A brokerage that is a corporation shall report to the Superintendent the following:

1. The identity of any person or entity who acquires beneficial ownership or control of more than 10 per cent of the brokerage's equity shares issued and outstanding.

2. The identity of any persons or entities that are associated with each other and that together acquire beneficial ownership or control of more than 10 per cent of the brokerage's equity shares issued and outstanding.

3. The identity of any person or entity who acquires beneficial ownership or control of more than 50 per cent of the brokerage's equity shares issued and outstanding.

4. The identity of any persons or entities that are associated with each other and that together acquire beneficial ownership or control of more than 50 per cent of the brokerage's equity shares issued and outstanding.

(2) A report under subsection (1) shall be made within five days after the event occurs.

(3) In calculating the total number of equity shares of the brokerage beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total number of all shares beneficially owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

(4) For the purposes of this section, one person or entity is associated with another person or entity in any of the following circumstances:

1. One person is a corporation and the other person is a director or officer of the corporation.

2. One person is a corporation and the other person or entity controls the corporation, directly or indirectly.

3. Both persons are corporations and are controlled, directly or indirectly, by the same person or entity.

4. Both persons or entities are members of the same voting trust relating to shares of a corporation.

5. One entity is a partnership and the other person or entity is a partner in the partnership.

6. Both persons or entities are partners in the same partnership.

7. Both persons or entities are associated as described in paragraphs 1 to 6 with the same person or entity.

(5) In this section,

"equity share" means a share of a class or series of shares of a corporation that carries a voting right either under all circumstances or under circumstances that have occurred and are continuing.

Annual information return

57. By March 31 of each year, a brokerage shall submit to the Superintendent an information return for the previous calendar year in a form approved by the Superintendent.

Financial records

58. (1) A brokerage shall submit to the Superintendent the following:

1. A copy of the brokerage's financial statements for its last fiscal year, audited by a licensed public accountant.

2. A copy of the brokerage's trust account reconciliation for its last fiscal year, audited by a licensed public accountant.

(2) The financial statements must be prepared in accordance with generally accepted accounting principles, as recommended by the Accounting Standards Board of the Canadian Institute of Chartered Accountants and set out in the Handbook of the Canadian Institute of Chartered Accountants, and must include,

(a) a balance sheet as of the end of the fiscal year;

(b) a statement of income for the fiscal year;

(c) a statement of cash flows for the fiscal year; and

(d) a statement of retained earnings for the fiscal year.

(3) A brokerage is not required to submit audited financial statements or a trust account reconciliation under this section if,

(a) the brokerage did not hold any money in trust during the fiscal year; and

(b) the brokerage submits a statement to the Superintendent, in a form approved by the Superintendent, stating that it did not hold any money in trust during the fiscal year.

(4) The documents required by subsection (1) or statement required by clause (3) (b) must be submitted within 120 days after the end of the fiscal year of the brokerage to which they relate.

Recordkeeping

59. (1) A brokerage shall maintain the following records:

1. Complete and accurate financial records of its activities in Ontario.

2. Complete and accurate records of every mortgage application, mortgage instrument or mortgage renewal agreement received, arranged or entered into by it.

3. Complete and accurate records of all documents or written information provided to or obtained from a borrower, lender, investor or other person or entity pursuant to a requirement established under the Act.

4. Complete and accurate records of every agreement entered into by it.

(2) A brokerage's financial records shall distinguish between money and assets pertaining to the operation of the brokerage and money held in trust.

(3) A brokerage shall retain all documents and records that relate to a mortgage or mortgage renewal agreement, for at least six years after the date of maturity of the mortgage or renewal.

(4) A brokerage shall retain all other documents and records that it is required to make pursuant to a requirement established under the Act for at least six years.

(5) A brokerage shall retain all the documents and records described in subsections (3) and (4) at the brokerage's principal place of business in Ontario or at another place approved in writing by the Superintendent and, if the records originate at another place of business, the

brokerage shall forward them to its principal place of business or other approved place at the earliest opportunity after they are no longer needed at the other place of business.

(6) A brokerage shall take adequate precautions, appropriate to the form of the records, for guarding against their falsification.

(7) If a brokerage retains records in electronic form, those records need not be retained at a location described in subsection (5), but must be able to be retrieved, in a form that is understandable and within a reasonable time, from such location.

IV. INVESTOR/LENDER DISCLOSURE FORMS

Mortgage Brokerages, Lenders and Administrators Act, 2006

Transaction No._____

INVESTOR/LENDER DISCLOSURE FORM

Draft for Consultation Purposes

Important: This form is required by law and will provide you with important information.

This document should be provided by the brokerage and signed and dated by you at least 2 business days* before the earliest of:

a) The brokerage receiving money from you
b) The brokerage entering into an agreement to receive money from you
c) You signing the commitment
d) The brokerage issuing a commitment to the borrower on your behalf
e) You advancing money to the borrower
f) The trade completion date

With your written consent this 2 business day period can be reduced to 1 business day.

*A Saturday, Sunday or holiday is not a business day.

Caution

In this document "mortgage investment" includes lending money on the security of real property and making an investment in a mortgage through the purchase or exchange of a mortgage or an interest in a mortgage.

All mortgage investments carry a risk. A brokerage must disclose to you the risks and benefits of a mortgage proposed. You should very carefully consider the risk of this mortgage investment before making a commitment to ensure it is an appropriate investment for you.

In general, the higher the rate of return, the higher the risk of the mortgage investment.

Inexperienced lenders and investors are **not** advised to enter into mortgage investments.

You are **strongly** advised to obtain independent legal advice before you commit to lend or invest.

This mortgage investment is **not** insured by the Government of Ontario.

This mortgage investment cannot be guaranteed by the mortgage brokerage. If you are not prepared to risk a loss, you should not consider any mortgage investment.

If the mortgage investment to fund a development, construction or commercial project, the repayment of your investment may depend on the successful completion of the project, and its successful leasing or sale.

You should inspect the property or project that is the subject of this mortgage investment and the surrounding area before committing to lend or invest.

If you are one of several lenders or investors in this mortgage investment, you may not be able to enforce repayment of your investment on your own if the borrower defaults.

The attached declarations and disclosure summary are not intended to be a comprehensive list of factors to consider in making a decision concerning this mortgage investment. You should satisfy yourself regarding all factors relevant to this mortgage investment before you commit to lend or invest.

Initials of Lender or Investor	Dated by Lender or Investor

Mortgage Brokerages, Lenders and Administrators Act, 2006

Transaction No._____

A. Declaration by the Mortgage Brokerage

The declaration is made by_____
Mortgage Brokerage and licence number

1.	The borrower is related to the mortgage brokerage/ broker/agent.	❑ Yes ❑ No	Explain:_____
2.	The borrower is related to an officer, director, partner, employee or shareholder of the mortgage brokerage.	❑ Yes ❑ No	Explain:_____
3.	The mortgage brokerage/broker/ agent has or expects to have a direct or indirect interest in the property that is the subject of this mortgage investment.	❑ Yes ❑ No	Explain:_____
4.	A person or entity related to the mortgage brokerage/broker/agent has or expects to have a direct or indirect interest in the property that is the subject of this mortgage investment.	❑ Yes ❑ No	Explain:_____
5.	The individual or person or entity that appraised the property is related to the mortgage brokerage/broker/agent.	❑ Yes ❑ No	Explain:_____
6.	I have identified additional conflicts or potential conflicts of interest that are not captured under 1-5 above that the mortgage brokerage/broker/agent has with this investment.	❑ Yes ❑ No	Explain:_____
7.	The proceeds of this investment will be used to refinance, pay out, redeem or reduce an existing mortgage on this property.	❑ Yes ❑ No	Explain:_____
8.	If this mortgage investment is a purchase of an existing mortgage or a portion of an existing mortgage, the mortgage is:		Explain:_____
	a) Now in default	❑ Yes ❑ No	
	b) Has been in default in the preceding 12 months	❑ Yes ❑ No	

Transaction No._____

A. Declaration by the Mortgage Brokerage

9. The mortgage brokerage/broker/ agent does expect to gain any interest or benefit from this transaction other than the fees disclosed in section E of this summary.
   ❑ Yes ❑ No
   Explain:_____

10. I have verified the identity of the borrower.
    ❑ Yes ❑ No
    I used the following methods:
    _____
    _____
    Explain:_____

11. I have verified the information on the borrower application and supporting documentation.
    ❑ Yes ❑ No ❑ N/A
    Explain:_____

12. I have ensured that this mortgage investment is suitable for you based on your needs and circumstances.
    ❑ Yes ❑ No
    Explain:_____

13. I have provided you with the risks and benefits of this mortgage investment.
    ❑ Yes ❑ No
    Explain:_____

For the purpose of this declaration, two persons are "related" if they share any relationship other than an arm's length business relationship. For example, a shareholder, director, officer, partner or employee of a mortgage brokerage is related to the mortgage brokerage.

Initials of Lender or Investor Dated by Lender or Investor

Mortgage Brokerages, Lenders and Administrators Act, 2006

Transaction No._____

INFORMATION DISCLOSURE SUMMARY

Part F of this summary lists documents that must be provided to you along with this summary. You should examine the attached documents carefully before you make an investment decision. You should not rely solely on this disclosure summary.

B. PROPERTY/SECURITY TO BE MORTGAGED

1. Legal Description and Municipal Address of the property

2. Property Taxes

Annual property taxes: $_____

Are taxes in arrears?

- ❑ No
- ❑ Yes. Amount in arrears: $_____

3. Type of Property

❑ Property with existing buildings

- ❑ Single family residential
- ❑ One-to-four unit residential
- ❑ Five or more unit residential
- ❑ Commercial
- ❑ Industrial
- ❑ Other_____

❑ Vacant land, development or construction project. Detail of proposed project/proposed use:

❑ Other:

4. Zoning

Is the zoning on the property appropriate for the proposed use?

- ❑ Yes
- ❑ No If "No", details:

5. Appraisal

❑ No appraisal has been done on the property

OR

❑ An appraisal has been done on the property

For **all** properties, appraised "as is" value:

For development and construction projects projected market value when project is complete.

Date of appraisal:_____

Name and address of appraiser:

Initials of Lender or Investor	Dated by Lender or Investor

Transaction No.

C. MORTGAGE PARTICULARS

1. *Type of Mortgage*

Your investment represents:

- ❑ the entire mortgage

OR

- ❑ a portion of the mortgage (i.e. a syndicated mortgage)
  Your portion represents _____% of the total.
  _____ other parties have an interest in this mortgage.

Each party has the following interest:

Investor	Percentage of total
1	
2	
3	
Total	

Name the mortgage will be registered in (Mortgagee):

_____

_____

2. *Terms of Mortgage*

Amount of your investment: $_____

Face value of the mortgage: $_____

Interest rate is fixed at _____% per annum

OR

Interest rate is variable. Explain:

_____

_____

Compounding period: _____

Monthly payments by borrower: $_____

Monthly payments to you: $_____

(See part D for fees charged to you)

Term:_____ Amortization: _____

Maturity Date: _____

Balance on maturity: _____

Borrowers first payment due: _____

Terms and conditions of repayment:

_____

_____

_____

3. *Existing or New Mortgage*

- ❑ An existing registered mortgage or portion of an existing registered mortgage is being purchased.

OR

- ❑ Your investment will fund a new mortgage or portion of a new mortgage that has not yet been registered.

4. *Administered Mortgage*

Will the mortgage be administered for you?

- ❑ No
- ❑ Yes

If "Yes", name, licence number and address of mortgage administrator:

_____

_____

5. *Rank of Mortgage* (according to information from borrower)

The mortgage to be purchased/advanced is/will be a:

☐ first ☐ second ☐ third ☐ other:_____

Prior encumbrances (existing or anticipated):

☐ None **OR**

a) Priority: _____Face Amount: $_____
Amount owing: $_____

In default? ☐ Yes ☐ No

Name of Mortgagee: _____

b) Priority: _____ Face Amount: $_____
Amount owing:$_____

In default? ☐ Yes ☐ No
Name of Mortgagee: _____

Other encumbrances:

_____

_____

6. *Loan to Value Ratio* (according to information from borrower)

a) Total of prior encumbrances: $_____

b) Amount of this mortgage: $_____

c) Total amount of mortgages: $_____
(a + b)

d) Appraised "as is" value: $_____
(from Part A)

e) Loan to " as is" value: $_____
(c/d x 100)

f) Projected value: $_____
(where appropriate)

g) Loan to "projected value" ratio: $_____
(c/f x 100)

Initials of Lender or Investor	Dated by Lender or Investor

Transaction No._____

D. The Borrower

Name and address of Borrower:

_____
_____
_____
_____

Important: Financial information about the borrower's ability to meet the mortgage payments must be attached to this disclosure summary.

E. Fees

1. Fees and charges payable by the lender or investor

Mortgage brokerage fee/commission/other costs: $_____
Approximate legal fees and disbursements: $_____
Administration fees (where applicable): $_____
Any other charges: $_____
Specify:

_____
_____
_____
$_____

TOTAL: $_____

2. Fees and costs payable by the borrower

Amount	Paid to	Purpose
$		
$		
$		
$		
$		
$		
$		

F. Attached Documents

Important: You should review the following documents carefully and assess the risks of this mortgage investment before committing to lend or invest. You should check that all documents are consistent with this disclosure summary. The following documents must be attached:

1. If the investment is in an existing mortgage, a copy of the mortgage instrument.
2. If an appraisal of the property has been done in the preceding12 months and is available to the mortgage brokerage, a copy of the appraisal
3. If an appraisal of the property is not available as described in paragraph 2, documentary evidence of the property's value, other than an agreement of purchase and sale.
4. If an agreement of purchase and sale in respect of the property has been entered into in the preceding 12 months and is available to the brokerage, a copy of the agreement of purchase and sale.
5. Documentary evidence respecting the borrower's ability to meet the mortgage payments, such as a letter from an employer disclosing the borrower's earnings.
6. A copy of the borrower's application for the mortgage and of any document submitted in support of the application.
7. If the mortgage is a new mortgage, documentary evidence of any down payment made by the borrower for the purchase of the property.
8. A copy of any agreement that you may be asked to enter into with the mortgage brokerage.

Initials of Lender or Investor	Dated by Lender or Investor

One copy of this form must be provided to the prospective lender or investor, and one copy must be retained by the mortgage brokerage.

Mortgage Brokerages, Lenders and Administrators Act, 2006

Transaction No._____

LENDER RENEWAL DISCLOSURE FORM

Draft for Consultation Purposes

Important: **This form is required by law and will provide you with important current information on the renewal of the mortgage.**

This document should be provided by the brokerage and signed and dated by you at least 2 business days* before you enter into a mortgage renewal agreement. With your written consent this 2 business day period can be reduced to 1 business day.

*A Saturday, Sunday or holiday is not a business day.

Caution

If new funds are being advanced, the form for new mortgages, which is called the *Investor/Lender Disclosure Form* should be used instead of this form.

The mortgage brokerage cannot require you to enter into a mortgage renewal agreement until at least 2 business days after you have signed and dated this document. With your written consent this 2 business day period can be reduced to 1 business day.

This mortgage is **not** insured by the Government of Ontario.

This mortgage cannot be guaranteed by the mortgage brokerage.

You should review your files, including those held by the brokerage, on this mortgage to ensure all documents are consistent with this form, **including but not limited to:**

1. The previous investor disclosure.
2. A copy of the existing mortgage instrument.
3. Documentary evidence of the borrower's ability to pay.
4. A copy of the previous appraisal or other evidence of value.

Initials of Lender	Dated by Lender

Mortgage Brokerages, Lenders and Administrators Act, 2006

Transaction No._____

A. Declaration by the Mortgage Brokerage

The declaration is made by _____
Mortgage Brokerage and licence number

1.	The borrower is related to the mortgage brokerage/broker/agent.	❑ Yes ❑ No	Explain:_____
2.	The borrower is related to an officer, director, partner, employee or shareholder of the mortgage brokerage.	❑ Yes ❑ No	Explain:_____
3.	The mortgage brokerage/broker/agent has or expects to have a direct or indirect interest in the property that is the subject of the mortgage being renewed.	❑ Yes ❑ No	Explain:_____
4.	A person or entity related to the mortgage brokerage/broker/agent has or expects to have a direct or indirect interest in the property that is the subject of the mortgage being renewed.	❑ Yes ❑ No	Explain:_____
5.	The individual or company that appraised the property is related to the mortgage brokerage/broker/agent.	❑ Yes ❑ No	Explain:_____
6.	I have identified additional conflicts or potential conflicts of interest that are not captured under 1-5 above that the mortgage brokerage/broker/agent has with this renewal.	❑ Yes ❑ No	Explain:_____
7.	The mortgage brokerage/broker/agent does expect to gain any interest or benefit from this renewal other than the fees disclosed in section E of this summary.	❑ Yes ❑ No	Explain:_____
8.	I have verified the identity of the borrower. I used the following methods: _____ _____ _____	❑ Yes ❑ No	Explain:_____
9.	I have ensured that this mortgage renewal is suitable for you based on your needs and circumstances.	❑ Yes ❑ No	Explain:_____
10.	I have provided you with the risks and benefits of this renewal.	❑ Yes ❑ No	Explain:_____

Note: For the purpose of this declaration, two persons are "related" if they share any relationship other than an arm's length business relationship. For example, a shareholder, director, officer, partner or employee of a mortgage brokerage is related to the mortgage brokerage.

Initials of Lender	Dated by Lender

Mortgage Brokerages, Lenders and Administrators Act, 2006

Transaction No._____

INFORMATION DISCLOSURE SUMMARY

Part F of this summary lists documents that must be provided to you in conjunction with this Lender Renewal Disclosure Form.

B. PROPERTY/SECURITY TO BE MORTGAGED

1. Legal Description and Municipal Address of the property

2. Property Taxes

Annual property taxes: $_____

Are taxes in arrears? $_____

- ❑ No
- ❑ Yes Amount in arrears:

3. Type of Property

1. Property with existing buildings
   - ❑ Single family residential
   - ❑ One-to-four unit residential
   - ❑ Five or more unit residential
   - ❑ Commercial
   - ❑ Industrial
   - ❑ Other_____
2. Vacant land, development or construction project.
   Detail of proposed project/proposed use:
   _____
   _____
   _____

❑ Other:
Detail:
_____
_____
_____

4. Appraisal

❑ No appraisal has been done on the property in the last 12 months

OR

❑ An appraisal has been done on the property in the last 12 months
For **all** properties, appraised "as is" value:
_____

For development and construction projects projected market value when project is complete.
_____

Date of appraisal: _____

Name and address of appraiser:
_____
_____
_____

5. Zoning

Has there been a change in the zoning since the previous disclosure?

- ❑ No
- ❑ Yes If "Yes", details:

_____
_____
_____

Is the zoning on the property appropriate for the proposed use?

- ❑ Yes
- ❑ No If "No", details:

_____
_____
_____

Initials of Lender	Dated by Lender

Transaction No _____

C. MORTGAGE PARTICULARS

1. Type of Mortgage

Your interest in the mortgage represents:

❑ the entire mortgage

OR

❑ a portion of the mortgage (i.e. a syndicated mortgage)

Your portion represents _____% of the total._____ other parties have an interest in this mortgage.

Each party has the following interest:

Lender	Percentage of total
1	
2	
3	
Total	

Name the mortgage is registered in (Mortgagee):

_____

2. Terms of Mortgage

Amount of your investment: $_____

Face value of the mortgage: $_____

Interest rate is fixed at _____% per annum

OR

Interest rate is variable. Explain:

_____

_____

_____

Compounding period: _____

Monthly payments by borrower: $_____

Monthly payments to you: $_____

(See part D for fees charged to you)

Term:_____ Amortization: _____

Maturity Date: _____

Balance on maturity: _____

Borrowers first payment due: _____

Terms and conditions of repayment:

_____

_____

_____

_____

_____

_____

_____

3. Administered Mortgage

Will the mortgage continue to be administered for you?

❑ No

❑ Yes

If "Yes", name, licence number and address of mortgage administrator:

_____

_____

4. a) This mortgage is ☐ / is not ☐ at the time of renewal in default.

b) This mortgage has ☐ / has not ☐ been in default during the term of your investment.

If the mortgage is currently in default or has been in default:

Explain:_____

_____

_____

Initials of Lender	Dated by Lender

C. MORTGAGE PARTICULARS (CONTINUED)

5. *Rank of Mortgage* (according to information from borrower)

The mortgage to be renewed is/will be a:
☐ first ☐ second ☐ third ☐ other:_____

Prior encumbrances (existing or anticipated):
☐ None **OR**

a) Priority: _____ Face Amount: $_____
Amount owing:$_____
In default? ☐ Yes ☐ No
Name of Mortgagee: _____

b) Priority: _____ Face Amount: $_____
Amount owing:$_____
In default? ☐ Yes ☐ No
Name of Mortgagee: _____

Other encumbrances:
_____
_____

6. *Loan to value ratio for this renewal*

❑ There has been no recalculation of the loan to value ratio since the initial investment/last renewal date

❑ The loan to value ratio has changed since the initial investment/last renewal and is _____ because of:
- ❑ new appraisal or evidence of value
- ❑ change in prior encumbrances

(Explain and show calculation)
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_

D. THE BORROWER

Name and address of Borrower:
_____
_____
_____
_____

E. FEES

1. *Fees and charges payable by lender*

Mortgage brokerage fee/commission/other costs:$_____
Approximate legal fees and disbursements: $_____
Administration fees (where applicable): $_____
Any other charges: $_____
Specify:
_____
_____
_____ $_____

TOTAL: $_____

2. *Fees and costs payable by the borrower*

Amount	Paid to	Purpose
$		
$		
$		
$		
$		
$		
$		

Transaction No._____

F. Attached Documents

The following documents must be attached:

1. If an appraisal of the property has been done in the preceding 12 months and is available to the mortgage brokerage, a copy of the appraisal.
2. If an agreement of purchase and sale has been entered into in the preceding 12 months and is available to the brokerage, a copy of the agreement of purchase and sale.

The mortgage brokerage is also required to provide you, in writing, with all other information that a lender ordinary prudence would consider to be material to a decision whether to renew the mortgage.

G. Certification

This disclosure form has been completed by:

_____

_____

_____

_____

Name of mortgage brokerage, address and license number

_____

I have fully completed the above disclosure form in accordance with the ***Mortgage Brokerages, Lenders and Administrators Act, 2006*** and declare it to be accurate in every respect.

Date: _____

_____

Signature of mortgage broker authorized to sign on behalf of brokerage

_____

_____

Print name and licence number of mortgage broker

Acknowledgement

I, _____, of

Print name

_____

Address

acknowledge receipt of this disclosure form by the mortgage brokerage, signed by the mortgage broker authorized to sign on behalf of the brokerage.

I understand that the mortgage brokerage cannot require me to enter into a renewal agreement until at least 2 business days, or 1 business day with my written consent below, after receipt by me of this form.

_____ _____

Dated by Lender Signature of Lender

Consent to reduction of 2 business day review period

☐ I consent to reducing the review period from 2 business days to 1 business day.

_____ _____

Dated by Lender Signature of Lender

One copy of this form must be provided to the lender, and one copy must be retained by the mortgage brokerage.

Note that these regulations will only become law if the Legislative Assembly passes the associated legislation and if the Lieutenant Governor in Council promulgates the regulations.

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ISBN 1-4249-2753-6 (print)
ISBN 1-4249-2754-4 (HTML)
ISBN 1-4249-2755-2 (PDF)